her national integrity in the face of continued relentless pressures from the Arabs and others who seek only to profit from the oil and other resources in the area.

It is to be hoped that the greed, hatred and culpability which brought on the present crisis will be overcome by fairness and firmness.

It is also to be hoped that the boundaries eventually agreed upon will be those which will not permit Israel to be exposed to the adventurous whims of her neighbors. Only the U.S. is likely to assume the burden of this responsibility and we not only should—we must.

BLACK UNIONISTS URGE SUPPORT FOR ISRAEL

Leading Black trade unionists from across the country have issued an appeal for the support of Israel.

"We appeal to our government to provide Israel with whatever support it requires to defend itself in this hour of need," declared a statement published in The New York Times.

The statement, which was signed by 74 prominent Black unionists, was sponsored by the A. Philip Randolph Institute. Among those signing the statement were A. Philip Randolph, the pioneer Black trade union leader, and Frederick O'Neal, president of the Associated Actors and Artists, both of whom serve as vice presidents of the AFL–CIO.

"We have no doubt whatsoever that the defeat of Israel in battle would mean the destruction of Israel as a state and the annihilation of its population. This must not happen," said the statement.

In asking the Arab states to end their hostilities, the Black unionists declared: "The Arab people will gain nothing from the continuation of this conflict but more death, suffering and deprivation. This tragedy will only end when the Arab states agree to sit down with Israel and negotiate a peace. When this happens, it will be a joyous day, not only for Jew and Arab, but for all mankind. It will also be a joyous day for Blacks, whose fate is inseparably linked with the fate of Jews, as it is with the fate of all oppressed minorities."

Now that a cease-fire has been achieved and the elements of a peace agreement between Egypt and Israel appear to be emerging, we see greater prospects for real peace in the Middle East than at any time since the 1967 war. This peace, however, if it is to be viable, must be based on a mutual respect for the rights of all the parties to exist. We hope that the peace agreement now being negotiated will remove the need for Israel to ever again fight for her life.

ABSENT FROM QUORUM CALLS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1973

Mr. LEHMAN. Mr. Speaker, yesterday I was absent for quorum call No. 573, and for rollcalls Nos. 574 and 575 due to commitments I had in my district.

Had I been present and voting, I would have voted "nay" on rollcall No. 574 and "yea" on rollcall No. 575.

HOUSE OF REPRESENTATIVES—*Wednesday, November 14, 1973*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Who shall ascend into the hill of the Lord? Who shall stand in His holy place? He that hath clean hands and a pure heart; who hath not lifted up his soul unto vanity nor sworn deceitfully.—Psalms 24: 3, 4.

Draw near to us, our Father, as we stand in this circle of prayer. Cleanse our minds from fear, our hearts from malice, and our spirits from all desires unworthy of our best selves. As we pray do Thou take our lives and lift them to loftier levels of living, permeate them with higher hopes, make them throb with nobler impulses, and lead them to greater moral goals.

Let Thy kingdom come in our land and in all lands. Make the power of men to reside in goodness of heart, in the attitude of good will, in the spirit of justice and in the understanding of intelligent minds.

Bless Thou our President, our Speaker, and Members of Congress. With strong hearts, free hands and open minds lead them onward in the path of duty as they keep their faith in Thee, in our fellow men and in the ultimate triumph of all that is right. To the glory of Thy holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3801. An act to extend civil service Federal employees group life insurance and Federal employees health benefits coverage to U.S. nationals employed by the Federal Government;

H.R. 5692. An act to amend title 5, United States Code, to revise the reporting requirement contained in subsection (b) of section 1308;

H.R. 8219. An act to amend the International Organizations Immunities Act to authorize the President to extend certain privileges and immunities to the Organization of African Unity; and

H.R. 9295. An act to provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2315. An act relating to the compensation of employees of Senate committees; and

S. 2681. An act to authorize appropriations for the U.S. Information Agency.

PROPOSED SOCIAL SECURITY INCREASE

(Mr. MAHON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAHON. Mr. Speaker, we have concentrated this year in trying to look at the budget in the context of overall spending to a greater extent than heretofore.

I am not speaking in opposition to the proposed social security increase which the House will consider today. In fact, I expect to vote for it. I seek to put the increase in perspective as it relates to overall Government spending.

According to the discussion in the House on yesterday, the proposed social security increase will increase spending and the totality of the Federal debt this year by $1.1 billion. This will become a part of the $5 billion in congressional add-ons this year to the Presidential January spending budget.

I will discuss the fiscal situation in greater detail at another point in today's RECORD.

ENERGY CRISIS—ECONOMIC CRISIS

(Mr. HANNA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANNA. Mr. Speaker, with all of the discussions about the energy crisis we had better realize that it has a partner called the economic crisis. In the changes that this situation will inevitably bring about there will be many losers and a few great gainers.

It has been the tradition of democracy that we try to bring equity and that we try to spread our largess as well as we can but also spread the suffering wherever we can. I think this puts a great burden on us in the House to look at programs that will meet the economic crisis, because life in America 5 years from today will be an entirely different life. In that situation there will be great travail, and we in the Congress must be ready for it. Next year, if we have not shown the American people a better program than we have up to now, there will not only be a cry of impeach the President but a cry of sack the Congress.

BIPARTISAN EFFORT CALLED FOR

(Mr. RONCALIO of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RONCALIO of Wyoming. Mr. Speaker, we have heard much from our people about getting on with the Nation's business at this time and forget Watergate. I would like to note for the benefit of the Members that I understand this morning there was another

Republican conference with the President and Members of Congress, with the result that one Member who came back to the Committee on Interior and Insular Affairs an hour late, had certain amendments requiring unanimous consent, and then, in a pique, called for a quorum, which is, of course, his legal right, but he thereby disrupted the committee and set us back on our work schedule.

I hope those of us on the majority side will have the patience, and understanding required in this time of stress, but I also hope that the minority will not abuse their rights in the use of legal processes as I saw them abused in the Interior Committee this morning.

DISABILITY COMPENSATION FOR VETERANS

(Mr. DORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORN. Mr. Speaker, today I have introduced a bill which would provide for approximately a 15 percent increase in rates of disability compensation for disabled veterans. Service-connected disabled veterans received their last increase in compensation on August 1, 1972.

Unfortunately, inflation has had a serious impact on the adequacy of this program, and it will be necessary that the Congress consider proposed increases in service-connected compensation needed to stay abreast of the changes in the cost-of-living index. We are receiving many inquiries from the disabled veterans regarding the subject and I thought it would be useful to Members to know that it is the plan of the Committee on Veterans' Affairs to take up this legislation early next session.

The program of compensation for disabled veterans is a large and important program. There are presently 2,205,809 disabled veterans from the Nation's various wars receiving disability compensation. The annual outlay in the Veterans' Administration budget for this purpose is approximately $2.2 billion.

DEVELOPMENT OF OIL SHALE

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, today I am introducing legislation to provide for a Manhattan-type project for a program for the development of gasification of coal and for extraction of oil from the billions of tons of oil shale we have in this country. I submit that such a program should be launched immediately with determination, dedication, and sufficient funding so that we can depend upon ourselves for our energy supplies and keep internally and eternally strong.

My colleague and good friend, FRANK ALBERT STUBBLEFIELD, of the First District of Kentucky, joins me in cosponsoring this legislation. There are vast coal deposits in Montana; but there is one drawback, a shortage of water. There are also large coal deposits in Kentucky; fortunately, Kentucky has surplus water which can be used in coal gasification.

I would hope, Mr. Speaker, that this would be helpful to our own State of Kentucky and to the Nation.

AUTHORIZING APPROPRIATIONS FOR U.S. INFORMATION AGENCY

Mr. HAYS. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 11424) authorizing appropriations for the U.S. Information Agency.

The clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill as follows:

H.R. 11424

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Information Agency Appropriations Authorization Act of 1973".

SEC. 2. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1974, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) $194,839,000 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)", except that so much of such amount as may be appropriated for "Salaries and expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(2) $5,125,000 for "Special international exhibitions" and "Special international exhibitions (special foreign currency program)", of which not to exceed $1,000,000 shall be available solely for the Eight Series of Traveling Exhibitions in the Union of Soviet Socialist Republics; and

(3) $1,000,000 for "Acquisition and construction of radio facilities".

Amounts appropriated under paragraphs (2) and (3) of this subsection are authorized to remain available until expended.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated without fiscal year limitation for the United States Information Agency for the fiscal year 1974 the following additional or supplemental amounts:

(1) not to exceed $7,200,000 for increases in salary, pay, retirement, or other employee benefits authorized by law; and

(2) not exceed $7,450,000 for additional overseas costs resulting from the devaluation of the dollar.

SEC. 3. Section 701 of the United States Information and Educational Exchange Act of 1948 is amended to read as follows:

"PRIOR AUTHORIZATION BY CONGRESS

"SEC. 701. (a) Notwithstanding any provision of law enacted before the date of enactment of the United States Information Agency Appropriation Authorization Act of 1973, no money appropriated to carry out this Act shall be available for obligation or expenditure—

"(1) unless the appropriation thereof has been previously authorized by law; or

"(2) in excess of an amount previously prescribed by law.

"(b) To the extent that legislation enacted after the making of an appropriation to carry out this Act authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

"(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of the United States Information Agency Appropriation Authorization Act of 1973, which specifically repeals, modifies, or supersedes the provisions of this section.

"(d) The provisions of this section shall not apply with respect to appropriations made available under the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1974, and for other purposes", approved July 1, 1973, and any provision of law specifically amending such joint resolution enacted through October 16, 1973.".

SEC. 4. The United States Information Agency shall, upon request by Little League Baseball, Incorporated, authorize the purchase by such corporation of copies of the film "Summer Fever", produced by such agency in 1972 depicting events in Little League Baseball in the United States. Except as otherwise provided by section 501 of the United States Information and Educational Exchange Act of 1948, Little League Baseball, Incorporated, shall have exclusive rights to distribute such film for viewing within the United States in furtherance of the object and purposes of such corporation as set forth in section 3 of the Act entitled "An Act to incorporate the Little League Baseball, Incorporated", approved July 16, 1964 (78 Stat. 325).

Mr. HAYS. Mr. Speaker, several weeks ago the President vetoed the authorization bill for the U.S. Information Agency. He objected to the inclusion of a provision that I had introduced on the floor dealing with access to information in the possession of the Agency.

The effect of the President's action was to kill the USIA authorization measure. I am not going to argue the constitutional principle involved. Let me say at the outset that that provision does not appear in this bill.

In the interval since the President's veto several things have happened. The Senate committee has introduced and the Senate has passed a bill that picks up many of the provisions that appeared in the original bill and has also reduced the authorizations. The conference agreement of the House and Senate on the appropriations bill for USIA has been passed. And the Agency has been bugging me to get out a bill.

Yesterday I introduced H.R. 11424, the bill now before the House. Briefly it retains some of the authorized amounts in the original bill for radio facilities, for employee benefits, and for devaluation.

The most important change is in the item for "Salaries and expenses." The conferees had agreed on a figure of $196 million to which would be added $7,161,000 from the devaluation item, resulting in an authorization for this purpose of $203,161,000. Since there was no authorization in law to add $1 million to the item on "International exhibits" for the purpose of funding the special exhibit in the Soviet Union to which the President and Mr. Brezhnev agreed last June, the appropriation bill omitted that.

The Senate bill reverted to their much lower authorization for "Salaries and ex-

penses" and omitted the authorization for the special exhibition in the Soviet Union.

What I have done in my bill is to recommend an authorization of $194,839,000 for "Salaries and expenses." When $7,161,000 from the devaluation item is added to that the total is $202 million—exactly the amount appropriated. I see no reason to go over the appropriation figure. I think the Senate conferees will agree to that.

Section 3 is intended to assure that in the future the Agency will not be able to obligate or expend money unless it has been previously authorized in law.

Finally, the conferees had agreed in the original bill to the inclusion of a provision permitting Little League Baseball, Inc., to purchase copies of USIA's film "Summer Fever" for nonprofit showing in connection with Little League baseball. I have retained this provision in the bill now before the House.

Mr. Speaker, this is simply a retread bill that the House and the Senate had acted upon earlier. It omits, as I said, the provision to which the President objected. It brings the authorization figures into line with the appropriation bill for USIA.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

Mr. HAYS. Mr. Speaker, I ask unanimous consent for the immediate consideration of a similar Senate bill (S. 2681) to authorize appropriations for the U.S. Information Agency.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 2681

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States Information Agency Appropriations Authorization Act of 1973".

SEC. 2. (a) There are authorized to be appropriated for the United States Information Agency for fiscal year 1974, to carry out international informational activities and programs under the United States Information and Educational Exchange Act of 1948, the Mutual Education and Cultural Exchange Act of 1961, and Reorganization Plan Numbered 8 of 1953, and other purposes authorized by law, the following amounts:

(1) $188,124,500 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)", except that so much of such amount as may be appropriated for "Salaries and expenses (special foreign currency program)" may be appropriated without fiscal year limitation;

(2) $4,125,000 for "Special international exhibitions" and "Special international exhibitions (special foreign currency program)", of which not to exceed $1,000,000 shall be available solely for the Eighth Series of Traveling Exhibitions in the Union of Soviet Socialist Republics; and

(3) $1,000,000 for "Acquisition and construction of radio facilities".

Amounts appropriated under paragraphs (2) and (3) of this subsection are authorized to remain available until expended.

(b) In addition to amounts authorized by subsection (a) of this section, there are authorized to be appropriated without fiscal year limitation for the United States Information Agency for the fiscal year 1974 the following additional or supplemental amounts:

(1) not to exceed $7,200,000 for increases in salary, pay, retirement, or other employee benefits authorized by law; and

(2) not exceed $7,450,000 for additional overseas costs resulting from the devaluation of the dollar.

SEC. 3. Section 701 of the United States Information and Educational Exchange Act of 1948 is amended to read as follows:

"PRIOR AUTHORIZATION BY CONGRESS

"SEC. 701. (a) Notwithstanding any provision of law enacted before the date of enactment of the United States Information Agency Appropriation Authorization Act of 1973, no money appropriated to carry out this Act shall be available for obligation or expenditure—

"(1) unless the appropriation thereof has been previously authorized by law; or

"(2) in excess of an amount previously prescribed by law.

"(b) To the extent that legislation enacted after the making of an appropriation to carry out this Act authorizes the obligation or expenditure thereof, the limitation contained in subsection (a) shall have no effect.

"(c) The provisions of this section shall not be superseded except by a provision of law enacted after the date of enactment of the United States Information Agency Appropriation Authorization Act of 1973, which specifically repeals, modifies, or supersedes the provisions of this section.

"(d) The provisions of this section shall not apply with respect to appropriations made available under the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1974, and for other purposes", approved July 1, 1973, and any provision of law specifically amending such joint resolution enacted through October 16, 1973.".

AMENDMENT OFFERED BY MR. HAYS

Mr. HAYS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAYS: Strike out all after the enacting clause of the Senate bill S. 2681 and insert in lieu thereof the provisions of H.R. 11424, as passed by the House.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill, H.R. 11424, was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2681, AUTHORIZING APPROPRIATIONS FOR THE U.S. INFORMATION AGENCY

Mr. HAYS. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 2681, and request a conference with the Senate on the disagreeing votes of the two Houses thereon.

The SPEAKER. Is there objection to the request of the gentleman from Ohio? The Chair hears none, and appoints the following conferees: Messrs. HAYS, MORGAN, ZABLOCKI, MAILLIARD, and THOMSON of Wisconsin.

PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL MIDNIGHT WEDNESDAY, NOVEMBER 21, 1973, TO FILE A RULE AND REPORT ON H.R. 7130, BUDGET CONTROL ACT OF 1973

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight next Wednesday, November 21, 1973, to file the rule and the report on the bill H.R. 7130, which is the Budget Control Act of 1973.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT SATURDAY, NOVEMBER 24, 1973, TO FILE REPORTS ON THE BILLS, H.R. 5463, TO ESTABLISH FEDERAL RULES OF EVIDENCE, AND H.R. 11401, TO PROVIDE FOR, AND ASSURE THE INDEPENDENCE OF, A SPECIAL PROSECUTOR

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight of Saturday, November 24, 1973, to file reports on the bills, H.R. 5463, a bill to establish Federal rules of evidence, and H.R. 11401, a bill to provide for, and assure the independence of, a special prosecutor.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

Mr. HOGAN. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO HAVE UNTIL MIDNIGHT, SATURDAY, NOVEMBER 24, 1973, TO FILE REPORT ON H.R. 5463, TO ESTABLISH FEDERAL RULES OF EVIDENCE

Mr. HUNGATE. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have until midnight of Saturday, November 24, 1973, to file House report on the bill H.R. 5463, "A bill to establish the Federal Rules of Evidence."

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

SENSE OF THE HOUSE OF REPRESENTATIVES WITH RESPECT TO ACTIONS BY MEMBERS CONVICTED OF CERTAIN CRIMES

Mr. MURPHY of Illinois. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 700 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 700

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H. Res. 128) expressing the sense of the House of Representatives with respect to actions which should be taken by Members of the House upon being convicted of certain crimes, and for other purposes. After general debate, which shall be confined to the resolution and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Standards of Official Conduct, the resolution shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Illinois (Mr. MURPHY) is recognized for 1 hour.

Mr. MURPHY of Illinois. Mr. Speaker, I yield the usual 30 minutes to the minority, to the distinguished gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. MURPHY of Illinois. Mr. Speaker, House Resolution 700 provides for an open rule with 1 hour of general debate on House Resolution 128, a resolution expressing the sense of the House of Representatives with respect to actions which should be taken by Members of the House upon being convicted of certain crimes.

House Resolution 128 expresses the sense of the House that Members who are convicted of a crime carrying penalties of 2 or more years' imprisonment should attend committee and subcommitee sessions but should not vote in those sessions, and should also refrain from voting on the floor of the House of Representatives.

Any effect of the resolution would be reversed upon a reinstatement of a presumption of innocence such as a reversal of the conviction upon appeal or a remanding of the case to the trial court. The effect of the resolution also would be reversed if the Member is reelected to the House of Representatives after the date of the conviction.

Mr. Speaker, I urge the adoption of House Resolution 700 in order that we may discuss and debate House Resolution 128.

The SPEAKER. The gentleman from Tennessee (Mr. QUILLEN) is recognized.

Mr. QUILLEN. Mr. Speaker, House Resolution 700 provides for the consideration of House Resolution 128, sense of the House of Representatives with respect to actions by Members convicted of certain crimes, under an open rule with 1 hour of general debate.

The purpose of House Resolution 128 is to state, as the sense of the House, that any Member convicted of a crime for which a sentence of 2 or more years imprisonment may be imposed, should refrain from committee activities and from voting on the floor of the House. However, if judicial or executive proceedings result in a reinstatement of the presumption of innocence, or the Member is reelected in spite of the conviction, then this resolution ceases to apply.

This resolution is an internal House action not requiring Senate approval or Presidential signature.

The goal of this resolution is to state a policy so that all concerned may be on notice and to show publicly a concern for the reputation of the House and its Members.

Mr. Speaker, I urge the adoption of this resolution in order that the House may begin debate on this important piece of legislation.

Mr. Speaker, I have no requests for time, but I reserve the balance of my time.

Mr. MURPHY of Illinois. Mr. Speaker, I should like at this point to remark that my colleagues, the gentleman from Illinois (Mr. PRICE) and the gentleman from Tennessee (Mr. QUILLEN) will lead the discussion here.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PRICE of Illinois. Mr. Speaker, I ask unanimous consent that the resolution (H. Res. 128) expressing the sense of the House of Representatives with respect to actions which should be taken by Members of the House upon being convicted of certain crimes, and for other purposes, be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the resolution as follows:

H. RES. 128

Resolve, That it is the sense of the House of Representatives that any Member of, Delegate to, or Resident Commissioner in, the House of Representatives who has been convicted by a court of record for the commission of a crime for which a sentence of two or more years' imprisonment may be imposed should refrain from participation in the business of each committee of which he is then a member and should refrain from voting on any question at a meeting of the House, or of the Committee of the Whole House, unless or until judicial or executive proceedings result in reinstatement of the presumption of his innonence or until he is reelected to the House after the date of such conviction. This resolution shall not affect any other authority of the House with respect to the behavior and conduct of its Members.

Mr. PRICE of Illinois. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this resolution was reported out of the Committee on Standards of Official Conduct by unanimous vote.

As is our committee's policy, because of the sensitive matters with which we treat, we bring this resolution before the House only after a thorough study and much deliberation.

We believe the resolution offers the House an opportunity to erect guideposts that would serve the House well in dealing promptly with the kind of situations at which the resolution is aimed. While our committee would like to hope that no such situations would arise, we think it wise to be prepared, for the sake of the House's integrity, to arm the House with the means of considering prompt action should the need occur.

In our committee's view, experience points to a need for such an implement as the pending resolution provides.

If the House were to take no notice of such matters until the final conclusion of judicial proceedings—a step which might not be reached until after termination of a Member's 2-year term—such lack of action might well be interpreted in the public mind as indifference by the House toward a very serious matter.

In seeking a rule for consideration of this resolution, I told the Rules Committee while our proposal involves only a sense-of-the-House action, with no specific enforcement authority, it seems to our committee that any Member who became subject to the resolution's provisions, and who ignored those provisions, would risk subjecting himself to the introduction of a privileged resolution relating to his conduct, in accordance with other provisions of House rules.

While the Committee on Standards of Official Conduct has no intention of abandoning its deliberate course in dealing with the sensitive matters which come before it, the committee is unanimous—I repeat—in urging adoption of the pending resolution which would make it the sense of the House that a Member convicted of a crime carrying a possible sentence of 2 or more years' imprisonment should refrain from participation in the business of each committee of which he is a member and refrain from voting on any questions in the House.

I now yield to the ranking minority member of the Committee on Standards of Official Conduct.

Mr. QUILLEN. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I thank my chairman and endorse the case he has made for the resolution now before the House.

My experience as a member of the Committee on Standards of Official Conduct from its beginning has convinced me that there is a definite need for the step now proposed.

This measure gives the House an immediate opportunity to act in cases of Members who are convicted of certain crimes.

While I pray for an absence of such crimes, I know—as do all other Members of the House—that there are occasional—if rare—infractions of the law, or alleged infractions, which reflect on Congress as a whole.

The resolution now before the House would provide a useful weapon, in my opinion, for treatment of future cases of the kind.

This resolution is designed to show that the House of Representatives is not indifferent to cases in which Members are convicted of statutory crimes. If the House were to ignore such cases pending the outcome of the appeal process, such inaction might be interpreted as indifference. The pending resolution, unanimously recommended by the committee, is designed to eliminate the basis for any such impression.

But, let me emphasize, this resolution

would become null and void when and if a Member were exonerated in the appeal process in the courts. In such instances, the Member in question automatically would regain full privileges in the House. The same restoration of such rights would occur in the case of a Member who is reelected after being convicted of such a crime. As stated in the committee's report, well established precedents hold that the House will not act in any way against a Member for any actions of which his electorate had full knowledge at the time of his election. Our committee holds these precedents inviolate.

I urge approval of the pending resolution for the sake of the integrity of the House of Representatives.

Mr. GROSS. Mr. Speaker, I move to strike the necessary number of words.

I should like to ask the gentleman from Illinois what really prompted this legislation?

Mr. PRICE of Illinois. There is no particular incident that prompts this. It is a resolution that the committee reported out in the last session last year. However, a rule was not granted and it was not considered in the House.

I believe this is an orderly manner in which to handle a situation that could occur. We have had instances in the past and the House was not equipped at the time to meet those situations. This provides an orderly procedure for dealing with such situations.

Mr. GROSS. It would apply to that period or interim between conviction and the exhausting of appeal?

Mr. PRICE of Illinois. The gentleman is correct.

Mr. GROSS. During appeals to the courts?

Mr. PRICE of Illinois. Yes. Upon conviction, a man is presumed to be guilty. During that period he shall step aside and not vote in the House or participate in committee action. On appeal, if a guilty verdict is reversed, the presumption of innocence would return and the Member could resume his duties.

Mr. GROSS. There is no reason, however, to assume that the number of Members who might find themselves prosecuted on criminal charges is going to increase?

Mr. PRICE of Illinois. I hope not.

Mr. GROSS. I thank the gentleman.

Mr. ROUSH. Mr. Speaker, I move to strike the last word.

Mr. Speaker, a few years ago I was involved in a recount for a seat in this body. For a period of some 5½ months the seat was vacant. During that time there was a storm of protest from people back home that there was no representation for that district.

Although I commend the committee for its action here, I am wondering if perhaps in their attempts to chastise the guilty Member they are not really punishing a constituency of people and that those people by this action would be effectively deprived of representation in the House of Representatives. Would it not be better for the House to bite the bullet and expel the guilty Member, rather than to take this kind of approach?

Mr. PRICE of Illinois. The gentleman from Indiana raises a question that has been of great concern to the committee during the last several years. We gave much thought to it during consideration of this resolution.

With this approach, we would not be depriving his constituency of any other service, except the Member's vote. He could continue to perform other services as a Member.

The expulsion resolution is something that is very, very drastic. His conviction might later be reversed by the court and there would be no tool, except another election in his home district, to restore him to office.

We considered the matter of expulsion, but that is a last resort—a step which the House might not want to take until a person's right of appeal has been exhausted.

Mr. ROUSH. I appreciate the dilemma that the committee found itself in; however, I still have a question in my own mind, and that is the fact that the constituency of the Member would in effect be without representation.

We have had several votes in these last couple months that have been carried or lost by just one vote in this House. Such a situation could create, I believe, a serious problem. It could affect, indeed, the history of this country if one man was deprived of his vote.

Mr. PRICE of Illinois. As I say, I appreciate the concern of the gentleman from Indiana, but I am certain that unless the House adopts a pattern such as this to deal with a situation which we hope would not occur, the route would be that of a privileged resolution on expulsion.

I believe this is a more desirable manner in which to resolve a very unhappy situation.

Mr. ROUSH. Mr. Speaker, as I said, I support the resolution of the committee. I just think it does not go far enough in dealing with matters which affect the integrity of the House of Representatives.

Mr. DRINAN. Mr. Speaker, the resolution before us proposes to inhibit participation in committee and on the floor of the House of Representatives by any Member of Congress after he has been convicted of a crime. The problems of a civil libertarian and constitutional nature which this resolution raises are sufficiently grave to cause me to cast my vote against this Resolution.

Article I, section 5, paragraph 2 of the Constitution provides that:

> Each House may punish its Members for disorderly Behavior, and, with the Concurrence of two-thirds, expel a Member.

The power to punish a Member has generally been exercised for behavior which takes place on the floor of the House or for conduct connected with the legislative function. I believe the sanction of no participation in votes in committee or on the floor in this bill to be far more severe than any authorized by the Constitution.

This bill would in effect authorize the suspension of an elected Member of the House of Representatives who has been convicted of a crime. Any such drastic action as suspension should derive only from his action as a Member and not for ordinary criminal offenses. The Supreme Court of the United States in the Powell case (*Powell* v. *McCormack*, 395 U.S. 486) decided that exclusion could be based only on considerations of age, citizenship, and inhabitancy as those matters are stated in the Constitution. And, the power of expulsion has been determined by the Judiciary Committee of the House to be unusable for an offense alleged to have been committed even against a preceding Congress.

My basic difficulty with this resolution is that the presumption of innocence is removed immediately after conviction. I think the better rule would be that the presumption of innocence is removed only after a congressional criminal defendant has exhausted all avenues of appeal, at least for the purposes of participation in the House of Representatives. It may indeed be perfectly proper for a Member of Congress to voluntarily agree not to vote during the pendence of his appeal. This was, I believe, the case with Congressman Dowdy who, in the last Congress, was convicted of bribery, perjury and conspiracy, and who refrained from voting either in committee or on the floor. Similarly, Congressman Zihlman of Maryland refrained voluntarily after his indictment in the 71st Congress, and Congressman Langley, of Kentucky, after his conviction in the 68th Congress, from voting in the House.

However proper and praiseworthy may be the actions of Congressmen Zihlman, Langley and Dowdy, I do not believe it is within the constitutional power of the House to enforce such a resolution as is before us today. Indeed, if a Member voted after conviction and during the pendency of his appeals, I do not believe that he or she could be censured, suspended or expelled for so voting.

There appears to be no constitutional or decisional law supporting expulsion from Congress on the basis of conviction for an ordinary crime. The resolution before us amounts to the suspension of a Member for which there appears to be no precedent.

Generally, expulsion has been restricted to matters which occur in the House, and during a Congress. Early in this century, two Senators from South Carolina were suspended for a few days for fistfighting on the floor of the Senate. Similarly, there may be some cause for censure, suspension or expulsion for a Member who has violated a law which reflects directly on his oath, such as treason. The Senate expelled, for example, Senator William Blount, of Tennessee, in 1797, for treason.

I am reluctant to vote in favor of this resolution, because I believe that the more than 400,000 members of each congressional district have a right to be represented by their elected Representative unless there is a constitutional impediment to do so. I find no such constitutional authority. Accordingly, I cast my vote against this resolution.

Mr. PRICE of Illinois. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RONCALIO of Wyoming. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 388, nays 18, not voting 27, as follows:

[Roll No. 582]

YEAS—388

Abdnor	Daniels, Dominick V.	Hicks
Abzug	Danielson	Hillis
Adams	Davis, Ga.	Hinshaw
Addabbo	Davis, S.C.	Hogan
Alexander	de la Garza	Holifield
Anderson, Calif.	Delaney	Holt
Andrews, N.C.	Dellenback	Holtzman
Andrews, N. Dak.	Denholm	Horton
Annunzio	Dennis	Hosmer
Archer	Dent	Howard
Arends	Derwinski	Huber
Armstrong	Devine	Hudnut
Ashbrook	Dickinson	Hungate
Badillo	Diggs	Hunt
Bafalis	Donohue	Hutchinson
Baker	Dorn	Ichord
Barrett	Downing	Jarman
Bauman	Duiski	Johnson, Calif.
Beard	Duncan	Johnson, Colo.
Bell	du Pont	Johnson, Pa.
Bennett	Edwards, Ala.	Jones, Ala.
Bergland	Eilberg	Jones, N.C.
Bevill	Erlenborn	Jones, Okla.
Biaggi	Eshleman	Jones, Tenn.
Biester	Evans, Colo.	Jordan
Boggs	Evins, Tenn.	Karth
Boland	Fascell	Kastenmeier
Bolling	Findley	Kazen
Bowen	Fish	Kemp
Brademas	Fisher	Ketchum
Bray	Flood	King
Breaux	Flowers	Koch
Brinkley	Flynt	Kuykendall
Brooks	Foley	Kyros
Broomfield	Ford, Gerald R.	Landrum
Brotzman	Forsythe	Latta
Brown, Calif.	Fountain	Leggett
Brown, Mich.	Fraser	Lehman
Brown, Ohio	Frelinghuysen	Lent
Broyhill, N.C.	Frenzel	Litton
Broyhill, Va.	Frey	Long, La.
Buchanan	Froehlich	Long, Md.
Burgener	Fulton	Lott
Burke, Fla.	Fuqua	Lujan
Burke, Mass.	Gaydos	McCollister
Burleson, Tex.	Gettys	McCormack
Burlison, Mo.	Giaimo	McDade
Butler	Gibbons	McEwen
Byron	Gilman	McFall
Camp	Ginn	McKay
Carey, N.Y.	Goldwater	McKinney
Carney, Ohio	Gonzalez	McSpadden
Carter	Goodling	Madigan
Casey, Tex.	Grasso	Mahon
Cederberg	Green, Oreg.	Mailliard
Chamberlain	Green, Pa.	Mallary
Chappell	Griffiths	Mann
Chisholm	Gross	Maraziti
Clancy	Grover	Martin, Nebr.
Clark	Gude	Martin, N.C.
Clausen, Don H.	Gunter	Mathias, Calif.
Clawson, Del	Guyer	Mathis, Ga.
Clay	Haley	Matsunaga
Cleveland	Hamilton	Mayne
Cochran	Hammer-schmidt	Mazzoli
Cohen	Hanley	Meeds
Collier	Hanna	Melcher
Collins, Ill.	Hanrahan	Metcalfe
Collins, Tex.	Hansen, Idaho	Mezvinsky
Conable	Hansen, Wash.	Michel
Conlan	Harsha	Milford
Conte	Harvey	Miller
Conyers	Hastings	Minish
Corman	Hawkins	Mink
Cotter	Hays	Minshall, Ohio
Coughlin	Hébert	Mitchell, Md.
Cronin	Hechler, W. Va.	Mitchell, N.Y.
Daniel, Dan	Heckler, Mass.	Mizell
Daniel, Robert W., Jr.	Heinz	Moakley
	Helstoski	Mollohan
	Henderson	Montgomery
	Hicks	Moorhead, Calif.
	Hillis	Morgan
	Hinshaw	Mosher
	Hogan	Murphy, Ill.
	Holifield	Murphy, N.Y.
	Holt	Myers
	Holtzman	Natcher
	Horton	Nedzi
	Hosmer	Nelsen
	Howard	Nix
	Huber	Obey
	Hudnut	O'Hara
	Hungate	Owens
	Hunt	Parris
	Hutchinson	Passman
	Ichord	Patman
	Jarman	Patten
	Johnson, Calif.	Pepper
	Johnson, Colo.	Perkins
	Johnson, Pa.	Pettis
	Jones, Ala.	Peyser
	Jones, N.C.	Pickle
	Jones, Okla.	Pike
	Jones, Tenn.	Poage
	Jordan	Powell, Ohio
	Karth	Preyer
	Kastenmeier	Price, Ill.
	Kazen	Price, Tex.
	Kemp	Pritchard
	Ketchum	Quie
	King	Quillen
	Koch	Railsback
	Kuykendall	Randall
	Kyros	Rangel
	Landrum	Rarick
	Latta	Rees
	Leggett	Regula
	Lehman	Reid
	Lent	Reuss
	Litton	Rhodes
	Long, La.	Riegle
	Long, Md.	Rinaldo
	Lott	Roberts
	Lujan	Robinson, Va.
	McCollister	Robison, N.Y.
	McCormack	Rodino
	McDade	Roe
	McEwen	Rogers
	McFall	Roncalio, Wyo.
	McKay	Roncallo, N.Y.
	McKinney	Rooney, Pa.
	McSpadden	Rose
	Madigan	Rosenthal
	Mahon	Roush
	Mailliard	Rousselot
	Mallary	Roy
	Mann	Roybal
	Maraziti	Runnels
	Martin, Nebr.	Ruppe
	Martin, N.C.	Ruth
	Mathias, Calif.	Ryan
	Mathis, Ga.	Sandman
	Matsunaga	Sarasin
	Mayne	Sarbanes
	Mazzoli	Satterfield
	Meeds	Scherle
	Melcher	Schneebeli
	Metcalfe	Schroeder
	Mezvinsky	Sebelius
	Michel	Selberling
	Milford	Shipley
	Miller	Shoup
	Minish	Shriver
	Mink	Shuster
	Minshall, Ohio	Sikes
	Mitchell, Md.	Sisk
	Mitchell, N.Y.	Skubitz
	Mizell	Slack
	Moakley	Smith, Iowa
	Mollohan	Smith, N.Y.
	Montgomery	Snyder
	Moorhead, Calif.	Spence
	Morgan	Staggers
	Mosher	Stanton, J. William
	Murphy, Ill.	Stanton, James V.
	Murphy, N.Y.	Steed
	Myers	Steele
	Natcher	Steelman
	Nedzi	Steiger, Ariz.
	Nelsen	Steiger, Wis.
	Nix	Stephens
	Obey	Stokes
	O'Hara	Stratton
	Owens	Stubblefield
	Parris	Studds
	Passman	Sullivan
	Patman	Symington
	Patten	Symms
	Pepper	Talcott
	Perkins	Taylor, Mo.
	Pettis	Taylor, N.C.
	Peyser	Teague, Calif.
	Pickle	Teague, Tex.
	Pike	Thompson, N.J.
	Poage	Thomson, Wis.
	Powell, Ohio	Thone
	Preyer	Thornton
	Price, Ill.	Towell, Nev.
	Price, Tex.	Treen
	Pritchard	Udall
	Quie	Ullman
	Quillen	Van Deerlin
	Railsback	Vander Jagt
	Randall	Vanik
	Rangel	Veysey
	Rarick	Vigorito
	Rees	Waggonner
	Regula	Waldie
	Reid	Walsh
	Reuss	Wampler
	Rhodes	Ware
	Riegle	Whalen
	Rinaldo	White
	Roberts	Whitehurst
	Robinson, Va.	Whitten
	Robison, N.Y.	Widnall
	Rodino	Wiggins
	Roe	Williams
	Rogers	Wilson, Bob
	Roncalio, Wyo.	Wilson, Charles H., Calif.
	Roncallo, N.Y.	Wilson, Charles, Tex.
	Rooney, Pa.	Winn
	Rose	Wolff
	Rosenthal	Wright
	Roush	Wyatt
	Rousselot	Wydler
	Roy	Wylie
	Roybal	Wyman
	Runnels	Yatron
	Ruppe	Young, Alaska
	Ruth	Young, Fla.
	Ryan	Young, Ill.
	Sandman	Young, S.C.
	Sarasin	Young, Tex.
	Sarbanes	Zablocki
	Satterfield	Zion
	Scherle	
	Schneebeli	
	Schroeder	
	Sebelius	
	Selberling	
	Shipley	
	Shoup	
	Shriver	
	Shuster	
	Sikes	
	Sisk	
	Skubitz	
	Slack	
	Smith, Iowa	
	Smith, N.Y.	
	Snyder	
	Spence	
	Staggers	
	Stanton, J. William	
	Stanton, James V.	
	Steed	
	Steele	
	Steelman	
	Steiger, Ariz.	
	Steiger, Wis.	
	Stephens	
	Stokes	
	Stratton	
	Stubblefield	
	Studds	
	Sullivan	
	Symington	
	Symms	
	Talcott	
	Taylor, Mo.	

NAYS—18

Breckinridge	Ford, William D.	O'Neill
Burton	Harrington	Stark
Crane	Landgrebe	Tiernan
Dingell	McCloskey	Yates
Drinan	Macdonald	Young, Ga.
Eckhardt	Moss	
Edwards, Calif.		

NOT VOTING—27

Anderson, Ill.	Davis, Wis.	Mills, Ark.
Ashley	Dellums	Nichols
Aspin	Esch	O'Brien
Bingham	Gray	Podell
Blackburn	Gubser	Rooney, N.Y.
Blatnik	Keating	Rostenkowski
Brasco	Kluczynski	St Germain
Burke, Calif.	McClory	Stuckey
Culver	Madden	Zwach

So the resolution was agreed to.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Ashley.
Mr. Brasco with Mr. Aspin.
Mr. Gray with Mrs. Burke of California.
Mr. Blatnik with Mr. Anderson of Illinois.
Mr. Bingham with Mr. Dellums.
Mr. Kluczynski with Mr. Blackburn.
Mr. Madden with Mr. Davis of Wisconsin.
Mr. St Germain with Mr. Esch.
Mr. Rostenkowski with Mr. Zwach.
Mr. Stuckey with Mr. Gubser.
Mr. Mills of Arkansas with Mr. Keating.
Mr. Culver with Mr. McClory.
Mr. Nichols with Mr. O'Brien.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE of Illinois. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PERSONAL ANNOUNCEMENT

Mr. BINGHAM. Mr. Speaker, on rollcall No. 582, I am listed in the CONGRESSIONAL RECORD, as not voting. I was on the floor at the time of the voting and intended to vote aye. Apparently the electronic device did not properly record my vote. I ask unanimous consent that this statement be inserted in the permanent RECORD following the record of the vote.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO FILE A PRIVILEGED REPORT

Mr. THOMPSON of New Jersey. Mr. Speaker, I ask unanimous consent that the Committee on House Administration may have until midnight tonight to file a privileged report.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

INCREASING MONTHLY RATES OF DISABILITY, DEATH PENSIONS, DEPENDENCY AND INDEMNITY COMPENSATION

Mr. DORN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 9474) to amend title 38 of the United States Code to increase the monthly rates of disability and death pensions, and dependency and indemnity compensation, and for other purposes, with Senate amendments thereto, and consider the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Strike out all after the enacting clause and insert:

That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $143. For each $1 of annual income in excess of $300 up to and including $800, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $800 up to and including $1,200, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,200 up to and including $1,600, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,600 up to and including $2,000, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,000 up to and including $2,400, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,400 up to and including $2,800, the monthly rate shall be reduced 8 cents. For annual income of $2,800 through $3,000,

the rate shall be $8. No pension shall be paid if annual income exceeds $3,000.".

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $154 for a veteran and one dependent, $159 for a veteran and two dependents, and $164 for three or more dependents. For each $1 of annual income in excess of $500 up to and including $800, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $800 up to and including $2,200, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $2,200 up to and including $3,200, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $3,200 up to and including $3,800, the monthly rate shall be reduced 5 cents; and for each $1 of annual income in excess of $3,800 up to and including $4,200, the monthly rate shall be reduced 6 cents. No pension shall be paid if annual income exceeds $4,200.".

(c) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $96. For each $1 of annual income in excess of $300 up to and including $500, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $500 up to and including $1,500, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,500 up to and including $2,500, the monthly rate shall be reduced 4 cents; and for each $1 of annual income in excess of $2,500 up to and including $2,900, the monthly rate shall be reduced 5 cents. For annual income of $2,900 through $3,000, the rate shall be $4. No pension shall be paid if annual income exceeds $3,000.".

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $700 or less, the monthly rate of pension shall be $114. For each $1 of annual income in excess of $700 up to and including $1,100, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,100 up to and including $2,500, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $2,500 up to and including $3,400, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $3,400 up to and including $4,200, the monthly rate shall be reduced 4 cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $4,200.".

SEC. 2. Section 541(d) of title 38, United States Code, is amended by striking "17" and substituting in lieu thereof "18".

SEC. 3. (a) Section 542(a) of title 38, United States Code, is amended by striking the figures "42" and "17" respectively, and substituting in lieu thereof the figures "44" and "18", respectively.

(b) Section 542(c) of such title is amended by striking out "$2,000" and inserting in lieu thereof "2,400".

SEC. 4. Section 4 of Public Law 90-275 (82 Stat. 68) is amended to read as follows:

"SEC. 4. The annual income limitations governing payment of pension under the first sentence of section 9(b) of the Veterans' Pension Act of 1959 hereafter shall be $2,600 and $3,900, instead of $2,200 and $3,500, respectively.".

SEC. 5. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $800 or less, the monthly rate of dependency and indemnity compensation shall be $110. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,100 up to and including $1,500, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,500 up to and including $1,700, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,700 up to and including 2,000, the monthly monthly rates shall be reduced 6 cents; for each $1 of annual income in excess of $2,000 up to and including $2,300, the monthly rate shall be reduced 7 cents; and for each $1 annual income in excess of $2,300 up to and including $2,700, the monthly rate shall be reduced 8 cents. For annual income of $2,700 through $3,000, the rate shall be $4. No dependency and indemnity compensation shall be paid if annual income exceeds $3,000.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula.".

(b) Subsection (c) of such section 415 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $800 or less, the monthly rate of dependency and indemnity payable to each shall be $77. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,100 up to and including $1,400, the monthly rate shall be reduced 3 cents for each $1 of annual income in excess of $1,400 up to and including $2,300, the monthly rate shall be reduced 4 cents; and for each $1 of annual income in excess of $2,300 up to and including $2,700, the monthly rate shall be reduced 5 cents. For annual income of $2,700 through $3,000, the rate shall be $6. No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $3,000.".

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,000 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $74. For each $1 of annual income in excess of $1,000 up to and including $1,200, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,200 up to and including $2,900, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $2,900 up to and including $4,000, the monthly rate shall be reduced 3 cents. For annual income of $4,000 through $4,200 the rate shall be $5. No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $4,200.".

SEC. 6. Section 3203(a)(1) of title 38, United States Code, is amended by striking out "30" and inserting in lieu thereof "50".

SEC. 7. (a) Subsection (b) of section 3010 of title 38, United States Code, is amended by inserting "(1)" immediately after "(b)", and by adding at the end of said subsection the following new paragraph:

"(2) The effective date of an award of disability pension to a veteran shall be the date of application or the date on which the veteran became permanently and totally disabled, if an appliaction therefor is received within one year from such date, whichever is to the advantage of the veteran.".

(b) Subsection (a) of this section shall apply to applications filed after its effective date, but in no event shall an award made thereunder be effective prior to such effective date.

SEC. 8. (a) Any veteran who was dishonorably discharged from the United States Army as the result of an incident that occurred in Brownsville, Texas, on August 13, 1906, and who was not subsequently ruled eligible for reenlistment in the Army by a special Army tribunal decision dated April 6, 1910, shall, upon application made to the Administrator of Veterans' Affairs together with such evidence as the Administrator may require, be paid the sum of $25,000.

(b) Any unremarried widow of any veteran described in subsection (a) of this section shall, upon application made to the Administrator of Veterans' Affairs together with such evidence as the Administrator may require, be paid the sum of $10,000 if such veteran died prior to the date of enactment of this Act or if such veteran failed to make application for payment under subsection (a) after such date of enactment and prior to his death.

(c) Payment authorized to be made under this section in the case of any veteran or widow shall be made by the Secretary of the Army, out of funds available for the payment of retired pay to Army personnel, upon certification by the Administrator of Veterans' Affairs of the entitlement of such veteran or widow to receive such payment. In no case may any payment be made to any veteran or widow under this section unless application for such payment is made within five years after the date of enactment of this Act.

SEC. 9. This Act shall take effect on the first day of the second calendar month which begins after the date of enactment.

Amend the title so as to read: "An Act to amend title 38, United States Code, to increase the monthly rates of disability and death pensions and dependency and indemnity compensation and to increase income limitations relating thereto and for other purposes."

The SPEAKER. Is there objection to the request of the gentleman from South Carolina (Mr. DORN)?

Mr. HAMMERSCHMIDT. Mr. Speaker, reserving the right to object, and I do not plan to object, I would yield to the distinguished gentleman from South Carolina for the purpose of hearing the distinguished chairman explain the Senate amendments.

Mr. DORN. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. I yield to the gentleman from South Carolina.

Mr. DORN. Mr. Speaker, the bill, H.R. 9474, passed the House on July 30, 1973, and was returned by the Senate under date of August 2 with an amendment substituting the text of the Senate pension bill, S. 275.

At this point, Mr. Speaker, I am de-

lighted to yield to our chairman of the Subcommittee on Compensation and Pension, the distinguished former chairman of the Committee on Veterans' Affairs, the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE of Texas. Mr. Speaker, the original House version of this bill extended a minimum cost-of-living increase of 10 percent in pensions payable to veterans, widows and children, and dependency and indemnity compensation to dependent parents. In some instances, an increase higher than 10 percent was authorized. The income limits of $2,600 a year for the single person or $3,800 for the person with dependents were not changed. Further, consistent with a request from the administration, we placed a ceiling of $3,600 on the annual earned income of spouses for exclusion in determining the income of the pensioner. In connection with retaining the present income limits, we were assured by the Veterans' Administration that the bill would restore practically all of the reductions in pensions which occurred as a result of the social security increase last year.

With regard to the rate increases, the Senate version of the bill as returned to the House applied a 10-percent factor in such manner as to assure that no rate was increased in any greater degree. The House amendment to the Senate amendment represents a reasonable liberalization of the Senate approach but slightly more conservative than the original House rate structure. The Senate version also increased the income limitations for both single persons and persons with dependents by $400 in each case. The present House amendment reverts to the original approach with respect to holding the line on income limitations as contained in the original bill. It is our position that the present income limits are already so high as to reflect unfavorably when compared to the service-connected compensation program. Further increase would distort in an unacceptable fashion the relationship between non-service-connected pension and service-connected compensation.

Since the committee plans further review of the non-service-connected pension program next year and expects to receive some additional recommendations from the administration in this connection, it appears that it would be better to defer action on further income limit increases so that this subject could be viewed in light of the total package recommended by the administration.

As we are in the final stages of passing this bill increasing non-service-connected pension rates, the Congress also has under consideration an increase in social security which would affect veterans' and widows' incomes next year. The Veterans' Administration has already sent out its income questionnaire cards. Obviously, when veterans and widows return these cards, and some are already being returned, they will have no way of knowing what their increased income from social security next year will be. In view of this, it would appear appropriate that the Veterans' Administration observe the end of the year rule with respect to this increase.

With regard to consideration of a spouse's earned income, as the Members are aware, under existing law all of such income is excluded from considering the income of the pensioner. While we felt that this aspect of the House bill was a reasonable and realistic modification, the present amendment takes cognizance of certain pension reform principles advocated by the Administration and believes that further legislative study should be made of the extent to which a spouse's earned income should be a factor in determining pension entitlement. Accordingly, rather than approaching the subject on a piecemeal, arbitrary basis, we have concluded that for the time being the existing law in this connection should be retained. This policy decision coincides with the approach on this aspect taken in the Senate version of the bill.

The House amendment includes a new provision added by the Senate providing for the lump sum payment to any surviving veteran or the unremarried widows of any such veteran of the infamous Brownsville, Tex., incident of 1906. The subject matter of this provision was contained in a separate bill considered by our committee (H.R. 4382) on which testimony in support thereof was received by the sponsor, Mr. HAWKINS, of California, and also from Senator HUMPHREY, of Minnesota. The purpose of that bill was to confer a pensionable status on veterans and the survivors of veterans involved in the Brownsville incident. Since the objective of the Senate amendment is substantially the same as contained in the separate bill before our committee and is now in a form approved and recommended by the Department of the Army and the administration, the Committee on Veterans' Affairs believes it is entirely appropriate to include such a provision in the House amendment.

We are cooperating with the Senate committee in working out the differences between the House and Senate versions. The Senate committee has been most cooperative in discussing the differences and assisting in finding mutually suitable compromises. I am quite hopeful that the Senate will be able to agree to this amendment expeditiously and send the bill to the White House.

Mr. Speaker, I now yield to our chairman, the gentleman from South Carolina, who wishes to revise and extend his remarks concerning the Brownsville provision of the bill.

Mr. DORN. Mr. Speaker, at the hearing held by our Subcommittee on Compensation and Pension on H.R. 4382 and the Brownsville incident, it was clearly demonstrated that the action taken by the Army against 167 unidentified black soldiers in a mass punishment following a 10-minute shooting in Brownsville, Tex., on August 13, 1906, was not only completely unjustified but unconscionable in the extreme. Although a few of the soldiers were exoneraetd by a special Army tribunal in 1910, the majority of the soldiers concerned have had to live during all of the succeeding years and under the dark cloud of a "discharge without honor." It was not until 1972 that at long last the Secretary of the Army cleared the records of all the soldiers concerned and issued them honorable discharges. The relief proposed by the Senate amendment in the nature of a lump sum pension is a long overdue recognition of the Government's obligation arising out of the injustices and injuries suffered by these men as a result of their wrongful and illegal removal from the Army of the United States.

Mr. Speaker, I include in the RECORD at this point copies of agency reports to our committee on the original Brownsville bill together with an exchange of correspondence on the subject between the chairman of the House Committee on Armed Services and myself.

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS' AFFAIRS,
Washington, D.C., May 22, 1973.

Hon. WM. JENNINGS BRYAN DORN,
Chairman, House Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to respond to your request for a report on H.R. 4382, 93d Congress.

This bill would confer a special nonservice-connected pensionable status on certain veterans (or their widows, children, and grandchildren) involved in the Brownsville, Tex., incident of August 13, 1906, and would require the Administrator of Veterans' Affairs to make certain compensatory payments to such veterans or their heirs.

On November 9, 1906, as the result of an incident which occurred on Aug. 13, 1906, in Brownsville, Tex., 167 members of the U.S. Army were discharged without honor. By reason of an amendment dated September 22, 1972, to the 1906 special order of the War Department, persons involved in the incident were declared to be honorably discharged from the U.S. Army.

The first section of the proposal provides that for the purposes of Veterans' Administration pension benefits, the designated persons are deemed to be veterans of the Mexican border period, to have met the service requirements under the pension laws, and to have had no annual income. The no-income presumption is equally applicable to a widow or any child of such veteran. This section would authorize continuing monthly payments of pension for persons eligible thereunder, from date of application therefor filed after enactment.

Section 2 of the proposal would additionally authorize a lump-sum payment of $20,000 in each case, or a sum with 6 percent interest equal to the amount of pension which would have been payable to the veteran under the pension laws during the period beginning on the date such veteran attained age 65 and ending on the date of enactment of this bill, whichever sum is higher. This section would give similar pension entitlement to the widows, children, and grandchildren of deceased veterans in the designated group. A veteran would not be entitled to the special pension benefit if he was ruled eligible for reenlistment by the special Army tribunal decision of April 6, 1910.

Section 3 of the proposal directs the Administrator to pay out of the current appropriations for the payment of pension a total amount of $40,000 to living veterans of the specified type or their heirs. This sum is described as being "in full settlement of the claims of the person concerned against the United States for the mental pain and suffering and social hardship associated with loss of reputation, and the economic hardship (including loss of military benefits and privileges), resulting from the unwarranted discharge without honor" given to the particular veterans.

The veterans with whom this bill is concerned were discharged in 1906, during peacetime. It is noted that veterans who received an honorable discharge in 1906 were

not entitled to any pension benefit unless they had service in the Spanish-American War and then, not until 1920 at the earliest. Pension benefits are generally limited to persons with wartime service. The effect of enactment of this bill would be to make 1906 peacetime service wartime service so as to qualify the persons concerned for pension benefits available to veterans of the Mexican border period (1916–17) and their widows and children. No reason is apparent as to why such preferential treatment should be afforded these persons. To do so would be discriminatory and could be urged as a precedent as regards other peacetime veterans.

Section 3010(i) of title 38, United States Code, provides that whenever a disallowed claim for benefits is allowed because of correction of military records, such benefits may be awarded from the date on which an application was filed for the correction of military records, or the date of disallowance of the claim, whichever date is later; but in no event may the award of benefits be retroactive for more than 1 year from the date of reopening of the disallowed claim. Inasmuch as H.R. 4382 could result in these veterans receiving benefits retroactively for more than 1 year, it is clearly discriminatory respecting other veterans who have had or will have entitlement to benefits established by virtue of having their military records corrected.

Grandchildren of veterans have never been eligible for pension benefits and the provision which would include them as possible beneficiaries for the special pension benefit is also discriminatory and precedential. Another discriminatory and precedential feature is the presumption of no income for pension purposes. The pension program is intended to provide a measure of assistance to wartime veterans and their surviving dependents who are in need. Need has been largely measured by income. The no-income provision would constitute a radical departure from this long established policy and would be manifestly unfair to millions of otherwise eligible veterans and widows whose income places them beyond the statutory need levels.

In lieu of regular pension, a lump-sun payment of $20,000 is authorized by the proposal, where greater. This again, is clearly discriminatory as the public law providing pension makes no similar provision for corrected discharge cases. Incidentally, this lump-sum, rather than regular pension, would undoubtedly be paid in most cases, as pension for Mexican border service veterans was first provided as of January 1, 1971.

As noted, section 3 proposes a $40,000 lump-sum payment, based on appropriate certification by the Secretary of the Army, to living veterans or their heirs for mental pain and suffering and social hardship, et cetera. The proposed payments are in no way related to the stated purposes of pension or other benefit programs administered by the Veterans' Administration. We see no need for Veterans' Administration involvement in the administration of, or payments proposed by, section 3. Accordingly, we defer to the Department of Defense on the merits of this section.

We have insufficient data upon which to base a worthwhile estimate of the cost of the measure, if enacted.

In the light of all of the foregoing, the Veterans' Administration opposes enactment of the first two sections of H.R. 4382, as well as section 3, insofar as Veterans' Administration participation is concerned.

Advice has been received from the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

DONALD E. JOHNSON,
Administrator.

DEPARTMENT OF THE ARMY,
Washington, D.C., June 13, 1973.

Hon. WM. JENNINGS BRYAN DORN,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on H.R. 4382, 93d Congress, a bill to confer pensionable status on veterans involved in the Brownsville, Tex., incident of August 13, 1906, and to require the Administrator of Veterans' Affairs to make certain compensatory payments to such veterans and their heirs. The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The title of the bill states its purpose.

The Department of the Army on behalf of the Department of Defense has considered the above mentioned bill. Inasmuch as sections 1 and 2 of the bill would be administered by the Veterans' Administration, the Department of Defense respectfully defers to that Agency as to the merits of those sections.

With respect to section 3 of the bill, it would require the Secretary of the Army to certify to the Administrator of Veterans' Affairs the name of each living individual who was discharged without honor on November 9, 1906, in connection with the incident which occurred in Brownsville, Tex., on August 13, 1906, and who by reason of the amendment dated September 22, 1972, to paragraph 1 of Special Orders 266, War Department, dated November 9, 1906, was declared to have been honorably discharged from the U.S. Army. Further, in the case of deceased individuals, the Secretary of the Army would be required to certify their heirs to the Administrator of Veterans' Affairs. The Department of the Army on behalf of the Department of Defense is opposed to this section.

As the incident occurred over 66 years ago, few of the individuals involved can reasonably be expected to have survived; the Army is aware of only two. Unless the survivors initiate an inquiry, the Secretary of the Army has no way of locating those that may be still living. The situation is compounded in the cases of spouses or heirs of deceased members both as to their existence and as to the establishment of proof of their relationship. The burden of proof to establish that a claimant is in fact a spouse or heir of a deceased member should be placed on that individual.

In view of the foregoing the Department of the Army on behalf of the Department of Defense is opposed to section 3 of H.R. 4382.

The Department of the Army believes that some compensation to surviving members of the Brownsville incident or their widows is a fair objective through legislation. A lump-sum payment should be considered through legislative enactment to those men involved who are still living and who were not ruled eligible for reenlistment by the special Army tribunal decision of April 6, 1910, or to their unremarried widows. Such legislation should provide for payment from appropriations currently available to the Department of Defense for military retired pay.

The fiscal effects of this legislation are not known to the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

HOWARD H. CALLAWAY,
Secretary of the Army.

JULY 30, 1973.

Hon. F. EDWARD HÉBERT,
Chairman, Armed Services Committee, Washington, D.C.

DEAR MR. CHAIRMAN: The Committee on Veterans Affairs has held hearings on H.R. 4382, a bill relating to benefits for individuals involved in the so-called "Brownsville Incident". In the course of the hearings a favorable report was received from the Department of Defense indicating that settlement of this issue should be made from military retirement funds. Since the Committee on Veterans Affairs has no jurisdiction over these funds, the Committee voted to have the bill re-referred to the Committee on Armed Services.

We of course realize that your Committee would not consider H.R. 4382 in its present form, so in effect we are tranferring the subject matter to your Committee because of the recommendation of the Department of Defense. We are in the process of printing our hearings and these will be made available to your Committee at the earliest possible time.

Congressman Teague is Chairman of the Compensation and Pension Subcommittee that held hearings on the subject, and both he and I will be glad to be of assistance in any way possible.

With best wishes, I am,

Sincerely,

WM. JENNINGS BRYAN DORN,
Chairman.

AUGUST 9, 1973.

Hon. F. EDWARD HÉBERT,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Further reference is made to my letter of July 30, 1973 concerning the re-referral to your Committee of H.R. 4382, a bill relating to benefits for individuals involved in the so-called "Brownsville Incident" and their survivors. As you have no doubt noted, the bill was formerly re-referred to your Committee on July 31, 1973.

To give you the background and purpose of this legislation, I am enclosing a copy of the Transcript of Hearings held on this bill by our Subcommittee on Compensation and Pension June 14, 1973, together with a copy of Senator Humphrey's statement on the bill and a press release issued by Congressman Augustus F. Hawkins, sponsor of the legislation.

Subsequently, the Senate reported a veterans' pension bill, S. 275, Section 8 of which deals with this same subject matter. After S. 275 was passed by the Senate August 2, the House pension bill, H.R. 9474, was taken up, amended by substituting the text of the Senate bill and passed. We hope to take appropriate action on the pension bill shortly after returning from the summer recess. Prior thereto, we will coordinate with you with respect to what position the House should take on the Brownsville provision of the bill.

Sincerely,

WM. JENNINGS BRYAN DORN,
Chairman.

SEPTEMBER 20, 1973.

Hon. F. EDWARD HÉBERT,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I call your attention to recent correspondence between you and Chairman Dorn concerning legislation proposing certain benefits for individuals involved in the so-called "Brownsville Incident" and their survivors.

As you are aware, H.R. 4382, a bill proposing certain relief in this area, was re-referred to your Committee on July 31, 1973 for reasons outlined in Mr. Dorn's letter of

July 30th. Your letter of August 3, 1973 expressed a concurrence in this action.

Subsequently, as the Chairman advised you on August 9, 1973, the Senate, on August 2, passed a veterans' pension bill, S. 275, Section 8 of which deals with the same subject matter as the Brownsville bill, H.R. 4382. That section appears to authorize statutory relief in accordance with the recommendation of the Department of Defense and the Office of Management and Budget. We have just received copies of letters of the Chairman of the Senate Committee on Veterans Affairs from the Department of the Army and the Office of Management and Budget (copies enclosed) expressing approval of the legislative approach embodied in Section 8 of S. 275 as that bill is now pending before the House.

You will recall that in your letter to Chairman Dorn of August 16th, you expressed your assurances with respect to advising our Committee as to action that might be taken by your Committee on this legislation. As you will note from the enclosed clipping from the Washington Post of September 19th, one of the two known survivors of the Brownsville Incident of 1906 recently died. Accordingly, if any of the few surviving beneficiaries of remedial legislation are able to secure some relief, I am sure you will agree that immediate legislative action is imperative.

It is my belief that further House action on S. 275, as passed by the Senate, will be taken in the near future. In that connection, I perceive at this time no objection to Section 8 of the bill dealing with the Brownsville Incident. On the other hand, consistent with our position from the outset that the subject matter is primarily of concern to your Committee, Chairman Dorn agrees that we should defer to your wishes as to the appropriate further legislative procedure.

In view of the foregoing, I will appreciate your advising our Committee (1) whether, in connection with House consideration of the pension bill, S. 275, in the near future, you will waive any jurisdictional objection with regard to the Brownsville provision of the bill (Sec. 8) or (2) whether your Committee is prepared to expedite action on a separate proposal having the same objective. I am sure it is apparent to all of us that time is truly of the essence if we are going to provide effective legislative relief for the surviving tragic cases involved in the Brownsville Incident.

Sincerely,

OLIN E. TEAGUE,
Chairman, Subcommittee on Compensation and Pension.

SEPTEMBER 26, 1973.

HON. OLIN E. TEAGUE,
Chairman, Subcommittee on Compensation and Pension, Committee on Veterans' Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I have reference to your letter dated September 20, 1973, concerning pending legislation proposing certain benefits for certain individuals involved in the so-called "Brownsville Incident" and their survivors.

Your letter advises that on August 2, 1973, the Senate passed a Veterans Pension Bill, S. 275, of which Section 8 deals with the same subject matter as the Brownsville bill, H. R. 4382. Section 8 of the Senate bill, in accordance with your letter, appears to authorize statutory relief in accordance with the recommendation of the Department of Defense and the Office of Management and Budget.

In view of this circumstance, you have suggested that my Committee may wish to waive any jurisdictional objection with regard to the Brownsville provision of the bill, Section 8 of S. 275, so as to enable the Veterans Affairs Committee to act expeditiously on both the Brownsville provision of the bill and the balance of the Veterans Pension Bill, S. 275.

I appreciate your desire to expedite resolution of the so-called "Brownsville Incident", and in view of the unusual circumstances present in this case, I am sure that the Committee on Armed Services, including the Ranking Minority Member of the Committee, Mr. Bray, would have no objection to the Veterans Affairs Committee acting on this matter.

Sincerely,

F. EDW. HÉBERT, *Chairman.*

Mr. Speaker, it is estimated that the additional cost of the House amendment for the first full fiscal year would be $238.9 million and the increase in pension rates would be effective January 1, 1974. I strongly urge approval of the amendment and express the hope that the other body will follow suit on the measure so that our veterans and their dependents will be able to receive pension relief before the next session of this Congress.

Mr. HAMMERSCHMIDT. Mr. Speaker, I will support the motion of the distinguished gentlemen from South Carolina, the chairman of the Committee on Veterans' Affairs, to concur in the Senate amendment to H.R. 9474 with a further amendment. Members will recall the House passed this pension bill on July 30. The bill as it passed the House of Representatives had a first full year cost of $246 million. It provided for a minimum 10-percent increase in the monthly rates of pension. In some instances, the percentage increase was considerably greater than 10 percent. It also provided that a spouse's earned income in excess of $3,600 annually would be counted as the veteran's income for pension purposes. This bill, Mr. Speaker, was designed to neutralize or offset to a great extent the adverse effect of last year's social security increase upon veteran's pensions.

The Senate amendments to this bill, Mr. Speaker, authorized a maximum 10-percent increase in all pension rates. Additionally, the Senate amendments increased maximum income limitations of existing law by $400. The House bill had been silent on this provision. In addition, the Senate amendment authorized the payment of a lump sum pension to any surviving veteran or to the unremarried widow of any such veteran of the infamous Brownsville, Tex., incident of 1906. This incident, widely publicized, resulted in the Army giving dishonorable discharges to 167 unidentified black soldiers in a mass punishment following a 10 minute shooting. The guilt of the 167 soldiers was not established and the punishment was completely unjustified. In 1972, the Secretary of the Army cleared the records of all the soldiers concerned and issued them honorable discharges. The Senate amendment would authorize a $25,000 lump sum payment to surviving veterans and $10,000 for the unremarried widows.

The amendment offered by the chairman will authorize increases that are more generous than the original Senate scale and slightly more modest than the original House version. It will retain, however, the laudable objective of offsetting to a great extent the adverse effect of last year's social security increase.

It will preserve the income limitations of existing law, but will remove the limitation on spouse's earned income that were contained in the original House passed bill.

Finally, Mr. Speaker, the amendment will accept the Senate language authorizing a lump sum payment to survivors of the Brownsville incident and their unremarried widows.

I support the gentleman's amendment, Mr. Speaker, because it represents a reasonable compromise with the Senate version of the bill. I urge that it be passed.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. BRINKLEY. Mr. Speaker, as a member of the Veterans' Affairs Committee, I was pleased to join with Chairman DORN as a cosponsor of H.R. 9474 which we passed today overwhelmingly.

By increasing monthly non-service-connected disability and death pension rates for veterans, their widows and children and the dependency and indemnity payments to dependent parents by a minimum of 10 percent, this legislation will help eliminate the see-saw effect which plagues so many. In my opinion this bill will, in the great majority of cases, help to offset some of the veterans benefits which were lost because of the last 20 percent social security increase.

Mr. Speaker, because of the drastic spiraling increases in our cost of living, I strongly urge our colleagues in the other body to consider H.R. 9474 at an early date so that the benefits provided by this legislation can reach the intended recipients, many of whom are in great need, as soon as possible.

Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of H.R. 9474 and urge its unanimous approval by my colleagues. As we all know, this measure will provide for a 10-percent across the board increase in the pension benefits being received by our non-service-connected veterans and the widows and children of non-service-connected veterans. This increase will help to minimize the impact of the social security increase which became effective this past January.

I realize that this is a stopgap measure as far as our non-service-connected veterans are concerned, but hopefully it will help to alleviate their financial problems during these times of rising prices. It is unfortunate but true that each time we raise social security benefits, the non-service-connected veteran suffers a loss in his pension which means his monthly income remains virtually static. By passing this measure, we will make it possible for the non-service-connected veteran to realize a modest increase in his or her monthly income.

Mr. Speaker, I urge passage of H.R. 9474 as amended by the Senate and further amended by the House.

MOTION OFFERED BY MR. DORN

Mr. DORN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DORN moves that the House concur in the Senate amendment to the text with an amendment as follows: Strike out all after the enacting clause and insert:

That (a) subsection (b) of section 521 of title 38, United States Code, is amended to read as follows:

"(b) If the veteran is unmarried (or married but not living with and not reasonably contributing to the support of his spouse) and has no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $143. For each $1 of annual income in excess of $300 up to and including $800, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $800 up to and including $1,300, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,300 up to and including $1,600, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,600 up to and including $2,200, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,200 up to and including $2,500, the monthly rate shall be reduced 7 cents; and for each $1 of annual income in excess of $2,500 up to and including $2,600, the monthly rate shall be reduced 8 cents.

"No pension shall be paid if annual income exceeds $2,600.".

(b) Subsection (c) of such section 521 is amended to read as follows:

"(c) If the veteran is married and living with or reasonably contributing to the support of his spouse, or has a child or children, pension shall be paid according to the following formula: If annual income is $500 or less, the monthly rate of pension shall be $154 for a veteran and one dependent, $159 for a veteran and two dependents, and $164 for three or more dependents. For each $1 of annual income in excess of $500 up to and including $800, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $800 up to and including $2,600, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $2,600 up to and including $3,200, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $3,200 up to and including $3,700, the monthly rate shall be reduced 5 cents; and for each $1 of annual income in excess of $3,700 up to and including $3,800, the monthly rate shall be reduced 6 cents. No pension shall be paid if annual income exceeds $3,800.".

(c) Subsection (b) of section 541 of title 38, United States Code, is amended to read as follows:

"(b) If there is no child, pension shall be paid according to the following formula: If annual income is $300 or less, the monthly rate of pension shall be $96. For each $1 of annual income in excess of $300 up to and including $600, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $600 up to and including $1,400, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,400 up to and including $2,600, the monthly rate shall be reduced 4 cents.

No pension shall be paid if annual income exceeds $2,600.".

(d) Subsection (c) of such section 541 is amended to read as follows:

"(c) If there is a widow and one child, pension shall be paid according to the following formula: If annual income is $700 or less, the monthly rate of pension shall be $114. For each $1 of annual income in excess of $700 up to and including $1,100, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,100 up to and including $2,500, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $2,500 up to and including $3,400, the monthly rate shall be reduced 3 cents; and for each $1 of annual income in excess of $3,400 up to and including $3,800, the monthly rate shall be reduced 4 cents. Whenever the monthly rate payable to the widow under the foregoing formula is less than the amount which would be payable to the child under section 542 of this title if the widow were not entitled, the widow will be paid at the child's rate. No pension shall be paid if the annual income exceeds $3,800.".

SEC. 2. Section 541(d) of title 38, United States Code, is amended by striking "17" and substituting in lieu thereof "18".

SEC. 3. (a) Section 542(a) of title 38, United States Code, is amended by striking the figures "42" and "17" respectively, and substituting in lieu thereof the figures "44" and "18", respectively.

SEC. 4. (a) Subsection (b) of section 415 of title 38, United States Code, is amended to read as follows:

"(b)(1) Except as provided in paragraph (2) of this subsection, if there is only one parent, dependency and indemnity compensation shall be paid to him according to the following formula: If annual income is $800 or less, the monthly rate of dependency and indemnity compensation shall be $110. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,100 up to and including $1,500, the monthly rate shall be reduced 4 cents; for each $1 of annual income in excess of $1,500 up to and including $1,700, the monthly rate shall be reduced 5 cents; for each $1 of annual income in excess of $1,700 up to and including $2,000, the monthly rate shall be reduced 6 cents; for each $1 of annual income in excess of $2,000 up to and including $2,300, the monthly rate shall be reduced 7 cents; and for each $1 annual income in excess of $2,300 up to and including $2,600, the monthly rate shall be reduced 8 cents.

No dependency and indemnity compensation shall be paid if annual income exceeds $2,600.

"(2) If there is only one parent and he has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to him under either the formula of paragraph (1) of this subsection or under the formula in subsection (d), whichever is the greater. In such a case of remarriage the total combined annual income of the parent and his spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula."

(b) Subsection (c) of such section 415 is amended to read as follows:

"(c) Except as provided in subsection (d), if there are two parents, but they are not living together, dependency and indemnity compensation shall be paid to each according to the following formula: If the annual income of each parent is $800 or less, the monthly rate of dependency and indemnity payable to each shall be $77. For each $1 of annual income in excess of $800 up to and including $1,100, the monthly rate shall be reduced 2 cents; for each $1 of annual income in excess of $1,100 up to and including $1,400, the monthly rate shall be reduced 3 cents; for each $1 of annual income in excess of $1,400 up to and including $2,300, the monthly rate shall be reduced 4 cents; and for each $1 of annual income in excess of $2,300 up to and including $2,600, the monthly rate shall be reduced 5 cents.

No dependency and indemnity compensation shall be paid to a parent whose annual income exceeds $2,600.".

(c) Subsection (d) of such section 415 is amended to read as follows:

"(d) If there are two parents who are living together, or if a parent has remarried and is living with his spouse, dependency and indemnity compensation shall be paid to each such parent according to the following formula: If the total combined annual income is $1,000 or less, the monthly rate of dependency and indemnity compensation payable to each parent shall be $74. For each $1 of annual income in excess of $1,000 up to and including $1,200, the monthly rate shall be reduced 1 cent; for each $1 of annual income in excess of $1,200 up to and including $2,900, the monthly rate shall be reduced 2 cents; and for each $1 of annual income in excess of $2,900 up to and including $3,800, the monthly rate shall be reduced 3 cents.

No dependency and indemnity compensation shall be paid to either parent if the total combined annual income exceeds $3,800.".

SEC. 5. Section 3203(a)(1) of title 38, United States Code, is amended by striking out "30" and inserting in lieu thereof "50".

SEC. 6. (a) Subsection (b) of section 3010 of title 38, United States Code, is amended by inserting "(1)" immediately after "(b)", and by adding at the end of said subsection the following new paragraph:

"(2) The effective date of an award of disability pension to a veteran shall be the date of application or the date on which the veteran became permanently and totally disabled, if an application therefor is received within one year from such date, whichever is to the advantage of the veteran.".

(b) Subsection (a) of this section shall apply to applications filed after its effective date, but in no event shall an award made thereunder be effective prior to such effective date.

SEC. 7. (a) Any veteran who was dishonorably discharged from the United States Army as the result of an incident that occurred in Brownsville, Texas, on August 13, 1906, and who was not subsequently ruled eligible for reenlistment in the Army by a special Army tribunal decision dated April 6, 1910, shall, upon application made to the Administrator of Veterans' Affairs together with such evidence as the Administrator may require, be paid the sum of $25,000.

(b) Any unremarried widow of any veteran described in subsection (a) of this section shall, upon application made to the Administrator of Veterans' Affairs together with such evidence as the Administrator may require, be paid the sum of $10,000 if such veteran died prior to the date of enactment of this Act or if such veteran failed to make application for payment under subsection (a) after such date of enactment and prior to his death.

(c) Payment authorized to be made under this section in the case of any veteran or widow shall be made by the Secretary of the Army, out of funds available for the payment of retired pay to Army personnel, upon certification by the Administrator of Veterans' Affairs of the entitlement of such veteran or widow to receive such payment. In no case may any payment be made to any veteran or widow under this section unless application for such payment is made within five years after the date of enactment of this Act.

SEC. 8. This Act shall take effect on January 1, 1974.

Mr. DORN (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

The motion was agreed to.

MOTION OFFERED BY MR. DORN

Mr. DORN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DORN moves that the House concur in the Senate amendment to the title of the bill with an amendment as follows: Amend the title so as to read "a bill to amend title 38, United States Code, to increase the monthly rates of disability and death pensions and dependency and indemnity compensation and for other purposes."

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. DORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks, and to include extraneous matter, on the bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

SOCIAL SECURITY BENEFITS INCREASE

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11333) to provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11333, with Mr. DINGELL in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 1½ hours and the gentleman from Virginia (Mr. BROYHILL) will be recognized for 1½ hours.

The Chair recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, the purpose of H.R. 11333 is to provide increased payments for social security beneficiaries and needy aged, blind, and disabled adults who will start receiving payments under the new Federal supplemental security income program—SSI—which will go into operation at the beginning of 1974.

As recently as last July legislation was approved to increase the benefits of these same individuals. Public Law 93–66 enacted in July of 1973 would provide a 5.9-percent cost-of-living increase applicable only to social security benefits payable for June 1974 through December 1974. This benefit increase was enacted as an advance payment of a portion of the first automatic benefit increase which would be in effect for January 1975.

Let me say that this bill relates to two separate programs. One is the social security program, and the other is the supplemental security income program which Members will recall was enacted in 1972 to replace the Federal-State grant-in-aid program for the aged, the blind, and the disabled. In Public Law 93–66 this year we also provided for some additional payments in SSI recipients. Under the original law the new SSI program would go into effect in January, but earlier this year we provided for an increase in SSI payments that would go into effect in July of 1974.

What we are doing in that respect in this bill is stepping up the time for these increases from July of 1974 to January of 1974. Remember, these are for the aged, the blind, and the disabled. This is the supplemental security income program. I will in a few minutes point out the problem in connection with that program as it relates to State supplemental payments which create some difficulty, and I will point out how I think we properly have solved it in this bill.

The second measure that this bill relates to is of course the cost-of-living increases in the social security system which were to have gone into effect on January 1 of 1975 but concerning which earlier this year we provided a special 5.9-percent-benefit increase effective in July of 1974. What we are doing in this legislation is moving that increase on up to the earliest possible date when it can be put into effect, and that is March of this year, payable in the April checks.

Since the enactment of Public Law 93–66 early in July the cost-of-living index, particularly those elements which have the greatest effect on individuals not in the labor force, such as the price of food, has risen more rapidly than at any time since the post-World War II period. This is why we are here before the House today.

Note this: In the 3 months time, July, August, and September, the index has risen at a seasonally adjusted annual rate of 10.3 percent and the food component of the index has risen at a seasonally adjusted annual rate during those 3 months of 28.8 percent. This is the most phenomenal increase in the cost of food that any of us has experienced in our time and this is the reason we are here to try to relate that cost of living to the benefits that are received by the aged under these programs.

It is evident, therefore, that Congress should act now both to provide assurances to beneficiaries that the social security and supplemental security income programs are responsive to changing needs by improving benefits as quickly as possible and also to maintain confidence in the fiscal integrity of the social security system by improving the actuarial soundness of the program.

I believe it is extremely important that we keep the social security program actuarially sound and in this measure we have taken the necessary steps to bring the program back into actuarial soundness, so that we can go home to our constituents and explain to them that the social security fund is on a sound basis.

The committee's bill would provide for a flat 7 percent social security benefit increase for March, 1974, which will be reflected in the checks received early in April, which would be a partial advance payment of a permanent 11 percent benefit increase effective for June, 1974, reflected in the checks payable early in July.

Let me explain why the committee chose to make the first part of the increase in social security benefits effective for March. I just will explain that this is absolutely the earliest possible date that even a flat increase could be put into effect, according to the testimony presented to our committee by the Social Security Administration experts.

The Social Security Administration informed the committee that it did not have the ability to implement the new SSI program and at the same time recompute the benefits of all social security beneficiaries in the manner that social security benefit increases have been made in the past, which is on a so-called refined or precisely exact basis, and to reflect such a benefit increase in the checks received by social security beneficiaries prior to the checks issued in May, issued May 3, 1974.

Mr. Chairman, at this point I will insert into the RECORD a statement prepared by the Social Security Administration explaining why it would not be possible to include a social security benefit increase in social security checks prior to April 1974:

WHY IT ISN'T POSSIBLE TO PAY A SOCIAL SECURITY BENEFIT INCREASE IMMEDIATELY

Given the fact that the Social Security Administration employs tens of thousands of workers and is one of the world's largest users of computers, it would seem, on the surface that it would be a simple matter to include any benefit increase in the very next check following a decision by the Congress and the President to provide the increase.

As it turns out, it is a difficult and time-consuming task—one that requires a great deal of planning and preparatory work. While computers can calculate benefit increases very quickly, preparing them to make those calculations is a very complex undertaking. The complexity also limits the number of people who can be assigned to this work at any given time. Following are some of the reasons why the process takes so much time.

The computers can easily be used for the relatively simple chore of multiplying current benefits by the rate of the increase for less than half of the 29 million beneficiaries who receive checks each month.

For the remaining beneficiaries—some 17 million people—the computers must be programmed to apply a vast number of complex rules required to increase the amount of a person's check correctly. For example, a complex calculation is required for beneficiaries who retired before age 65, and for those who are widows.

Last year, the Social Security Act was amended to include many changes which greatly complicate benefit calculations and increase the number of variables that must be taken into account. Computer programs and payment systems are still being revised

to work those legislative changes into the system. These changes have rendered useless computer programs and special systems used by the Social Security Administration to execute previous benefit increases.

Last year's Social Security Amendments also authorized a new Federal Supplemental Security Income program calling for the Social Security Administration to begin making cash assistance payments to some 6 million needy aged, blind, and disabled people in January 1974. This new program adds a significant workload for the Social Security Administration. The requirement to install the Supplemental Security Income program and to increase social security benefits at the same time complicates both processes—particularly because the two programs affect each other and must be carefully coordinated.

The combination of all of these factors makes the preparation required to correctly increase 29 million social security checks more difficult than ever before. The best estimate of the Social Security Administration is that the complete process, from beginning of planning to delivery of an increased benefit check, will require about 6 months.

Following is a summary of some of the steps that are required to complete preparations, calculate the increase, and deliver a higher check to social security beneficiaries:

Step 1. The planning for and preparation of new computer programs and changes in the check processing system require about 12 weeks.

Step 2. Testing and checking these programs and systems changes require another 2 weeks.

Step 3. A master benefit record must be kept on the 29 million people now receiving checks. Correct benefit payments cannot be made unless it is maintained and updated accurately. Thus, the new computer programs and systems changes must be tested to be certain that they do not produce errors in the master benefit record. This step is very important, otherwise future benefits could be in error, to the disadvantage of millions of social security beneficiares. This step takes another 2 weeks.

Step 4. The actual process of updating the master file and calculating the benefit increase then takes place. It is this step that produces a massive computer tape which will be used by the Treasury Department as a basis for writing the benefit checks themselves. This step takes about 5 weeks.

Step 5. Using the tape prepared by the Social Security Administration, the Treasury Department prepares the actual checks—over 29 million of them. This requires about 3 to 4 weeks. The process of preparing regular monthly social security checks goes on routinely, month in and month out. Three weeks out of every month is always devoted to Treasury processing.

Step 6. The checks are mailed by the postal service. This is the quickest step. It only takes about 3 days.

To carry out all these steps takes about 6 months.

The Social Security Administration is anxious to deliver proper checks, including new benefit amounts, at the levels authorized in law—as quickly and as accurately as possible. Benefit increases have occurred with some frequency during recent years, and the Social Security Administration has gained a great deal of experience in preparing for and dealing with them. In the case of past benefit increases, SSA has begun a number of the required steps even ahead of actual changes in the law, in anticipation of final action by the Congress. In other words, the agency has anticipated the changes and thus reduced the elapsed time between final enactment of the benefit increase and the delivery of the check. However, it can begin its work only as soon as there is reasonable assurance of what the Congress intends to do. Assuming the Congress will complete its action by December 1, the above schedule would result in the delivery of accurately computed benefit increase checks in May of 1974—at the earliest.

POSSIBILITY OF A FLAT "UNREFINED" INCREASE

The above process can be speeded up if the law authorizing the benefit increase calls for a simple multiplication of the current benefit for each and every beneficiary by the percentage increase. In other words, by ignoring all the variables that now exist for more than 17 million beneficiaries, the process can be shortened. On this basis, a benefit increase can be paid in the April check. However, such an unrefined increase would mean that about 12 million people would receive an amount somewhat lower (usually about $1) than they would receive under a refined increase. Nevertheless, these people would receive more than they now receive.

Under this kind of arrangement, it would be necessary later to refine all the records and calculate all the variables for 17 million people in order to begin paying checks in the correct monthly amount.

With respect to the 7-percent benefit increase payable for March through May of 1974, the reported bill therefore provides for a simplified benefit increase. When the full 11 percent goes into effect in June, payable in July, it will be a "refined" 11 percent; so at that time the increases will be in full conformity with all the complexities and technicalities of the social security law and will be precisely accurate for all classes of beneficiaries.

Let me turn now to the financing, because I believe this is extremely important. The bill would also bring the long-range actuarial deficit of the system within acceptable limits by increasing the annual amount of earnings subject to tax and creditable for benefits and by making adjustments in the social security tax schedule.

Let me tell the Members here that until 1981 there will be no increase of rates in the combined social security and hospital insurance tax schedules. There will be some adjustment between the HI portion and the social security portion, which I also will explain. However, the bill would raise the social security taxable wage base for calendar year 1974 from $12,600 to $13,200.

The adjustments in the social security tax rates, as I have indicated, involve increases in the tax rates on a long term basis to provide additional funds for this social security cash benefit program and decreases in the tax rate for the hospital insurance program. There will be no increase, as I have indicated, in the total tax rate when we combine the tax rates of both of these programs until 1981. At that time there would be a 0.15-percent increase in the total tax rate involving an increase from 6.15 percent to 6.30 percent at that time, in 1981. There would also be an increase in the total combined tax rate in subsequent years. Mr. Chairman, at this point I will insert in the RECORD memorandums prepared by the office of the actuary relating to the financial soundness of the Social Security System as modified by H.R. 11333, and also a table setting forth social security tax rates under the present law and as they would be modified by the committee bill. These matters are covered very carefully in the committee report, and I would recommend these tables to the attention of the Members.

GENERAL MEMORANDUM

From: Francisco Bayo, Deputy Chief Actuary, SSA.

Subject: Margin of Variation in the Long Range Actuarial Balance of the OASDI System.

Historically, there has been a range or margin of variation that has been regarded as acceptable in the financing of the OASDI system. The margin has been predicated mostly on the basis that the actuary cannot project future costs with exact precision and partly on the fact that the tax rates are rounded to the nearest 0.10 percent of taxable payroll.

In the early 1960's, it used to be that the system would be considered in actuarial balance if the deficit (or surplus) was not over 0.30 percent of taxable payroll. This permissible margin of variations was later reduced to 0.10 percent of taxable payroll, when the 1965 Advisory Council recommended that the estimates be prepared over a 75-year period rather than over perpetuity. The change to a shorter period of valuation brought more certainty into the cost projections. The latest Advisory Council recommended that the estimates be based on increasing earnings and benefits assumptions rather than the static ones that had been used in the past. The projection of costs on the basis of possible future increases in wages and in Consumer Price Index makes the long-range cost more uncertain and, therefore, subject to a wider margin of variation. This new margin of variation could be established at a relative level of about 5 percent of the cost of the system, or at about 0.57 percent of taxable payroll for the present OASDI system.

The bill reported out by the Ways and Means Committee, H.R. 11333, has an actuarial balance of −0.51 percent of taxable payroll, and it is within a permissible margin of 5 percent of the cost of the system.

The present system has an actuarial balance of −0.76 percent of taxable payroll, which is outside the permissible range of variation. However, the Ways and Means Committee bill provides for an improvement in the financing of about ¼ of one percent of taxable payroll, thus bringing the system into closer actuarial balance.

Ideally, the preferred financing would yield an exact actuarial balance, that is, no long-range deficit or surplus, but due to the variations in future cost and to the rounding of the tax rates, a margin of deficit or surplus is acceptable.

FRANCISCO BAYO.

GENERAL MEMORANDUM

NOVEMBER 13, 1973.

From—Francisco Bayo, Deputy Chief, Actuary, SSA.

Subject—Financial Soundness of the Social Security System.

The financial or actuarial soundness of the Social Security system is generally established on the basis of the long-range cost of the system. This is done by comparing the average-cost of the system over 75 years into the future with the average tax collections that are expected over the same period. If in this comparison the costs and taxes are close to each other (no more than 5 percent apart), the system is regarded as being financially sound.

As examples of the above, it could be indicated that the present Social Security system needs additional taxes in order to be actuarially sound, since the tax collection projected under present law falls short by about 7 percent of projected cost. On the other hand, the bill reported out a few days

ago by the House Committee on Ways and Means, H.R. 11333, can be regarded as financially sound since there is a difference of only 4 percent between the projected taxes and the projected costs. This bringing of the Social Security system back into actuarial soundness is a result that the Committee wanted to accomplish in the bill.

In a program like the Social Security system, there is no need to keep on hand enough funds to pay for all future benefits. The test is whether all future income, in addition to the funds on hand, would come close to covering all future outgo. It is, however, important (but not essential) that the funds on hand increase during the early years, i.e., that the use of the present funds to pay benefits in the near future should be avoided. Under the bill reported out by the Ways and Means Committee, the funds would increase in the early years from about $46 billion at the end of 1974 to about $54 billion at the end of 1978. The reverse would be true under present law, since the funds would decrease from $47 billion in 1974 to $46 billion in 1978.

FRANCISCO BAYO.

SOCIAL SECURITY TAX RATES FOR EMPLOYERS, EMPLOYEES, AND SELF-EMPLOYED PERSONS UNDER PRESENT LAW AND COMMITTEE BILL

[In percent]

	Present law						Committee bill					
	Employer and employee, each			Self-employed			Employer and employee, each			Self-employed		
	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI	Total	OASDI	HI	Total
1974 through 1977	4.85	1.00	5.85	7.0	1.00	8.00	4.95	0.90	5.85	7.0	0.90	7.90
1978 through 1980	4.80	1.25	6.05	7.0	1.25	8.25	4.95	1.10	6.05	7.0	1.10	8.10
1981 through 1985	4.80	1.35	6.15	7.0	1.35	8.35	4.95	1.35	6.30	7.0	1.35	8.35
1986 through 2010	4.80	1.45	6.25	7.0	1.45	8.45	4.95	1.50	6.45	7.0	1.50	8.50
2011 plus	5.85	1.45	7.30	7.0	1.45	8.45	5.95	1.50	7.45	7.0	1.50	8.50

The committee bill also makes some modifications in the provisions of the Social Security Act with respect to increasing benefits automatically to keep pace with future increases in the cost of living.

Under present law, the cost of living for the automatic benefit increase provisions is measured from the second quarter of one year to the second quarter of the next year, with any benefit increase payable for the following January. This results in a 7-month lag between the end of the period which is used to determine the rise in the cost of living for an automatic benefit increase and the payment for such increase. The January check is actually received in February, 7 months after the close of the second calendar quarter.

The committee felt that an increase under the automatic benefit adjustment provision of the law should reflect the rise of the cost of living as nearly as possible to the date of implementation. In order to achieve this purpose, the bill would change the automatic adjustment provisions of the law to provide that future benefit increases be computed on the basis of the Consumer Price Index for the first calendar quarter rather than the second calendar quarter of the year, as under present law, and also that the resulting automatic benefit increase be effective for June of the year in which a determination to increase benefits is made.

This would reduce the lag between the end of the calendar quarter used to measure the rise in the cost of living and the payment of the resulting benefit increase from 7 months to 3 months. It would also mean that the automatic benefit increases in the future would be payable in the month in which any revised premiums under the supplemental medical insurance program would be effective, thus providing the opportunity to make both adjustments in the benefit checks at the same time. So we think this is an overall simplification of the act and one that will make it work more effectively.

Since the 11 percent benefit increase provided for in the bill approximately reflects the estimated rise in the cost of living into the second calendar quarter of 1974, the bill provides specifically that for purposes of determining the first automatic benefit increase effective for June, 1975, the increase in living cost would be determined from the second calendar quarter of 1974 to the first calendar quarter of 1975.

These changes would not affect automatic adjustment provisions relating to the contribution and benefit base and the earnings limitation except that these increases would occur periodically in January following a June benefit increase rather than with the same month for which benefits would be increased as under present law.

The bill specifically provides that the 11 percent benefit increase for June 1974 provided for in the bill shall be considered for purposes of permitting an automatic increase in the contribution and benefit base and the earnings limitations beginning effective January 1975.

Mr. Chairman, in making these changes in the automatic benefit increase provisions of the law, we have attempted to provide a mechanism for moving from these legislated increases that we have had to make because of the tremendous increase in cost of living. The bill will make it possible to work into the automatic cost-of-living procedures.

Under the bill we have provided for an 11-percent benefit increase effective in 1974 and then provided a new base period whereby we can move automatically into another cost-of-living increase payable in July of 1975. So it is the hope of the committee that there will be no need for any further legislation to get us into the automatic cost-of-living benefit increase procedures.

This bill will take fully into consideration all of the cost-of-living increases that will have taken place and will give that cost of living to the beneficiaries as rapidly as possible as the cost-of-living increase occurs.

Therefore, we think that this is the kind of tidying legislation that is absolutely essential to get the cost of living into a meaningful posture.

I think, very importantly, as I have indicated before, we have also corrected the actuarial imbalance in the program, and I think that is something that we should all note.

Let me turn to the matter of SSI benefits, because this will create some controversy in the program that we are presenting, and I think it is the only controversy.

The bill provides that SSI benefits would be increased from $130 to $140 for a single individual and from $195 to $210 for a couple, effective in January of 1974. That would be reflected in the checks received in January.

Remember, this is a new program, and this is when it goes into effect, in January. But we will increase that amount from the amount scheduled originally, as I have indicated.

A further increase of $6 for single individuals and $9 for couples would be effective in July 1974, as reflected in the checks received for July.

Now, Mr. Chairman, there is a provision that we will hear more about. The bill contains what has been referred to as a "pass-along provision" which will affect the benefits payable in some States which make the supplementary payments to recipients receiving benefits under the new Federal SSI program.

This is a rather complicated matter.

As all of us know, the rationale for the SSI program is to eliminate the grant-in-aid and cost-sharing provisions for the aged, blind, and disabled that we have always had and to make this a Federal program—in other words, to federalize the adult category.

But in the original bill as passed, we did make provision for the States that had supplemental payments, because some States have a higher cost factor, and they feel that their aged people cannot survive on the basis of these Federal limits. And so we put into effect what we call a hold harmless provision, and

that hold harmless provision is what gives us problems here.

The present law, in effect, provides that if the average amount of income actually received by aged, blind, and disabled welfare recipients under State programs in January of 1972 was higher than the level of Federal payments under the supplemental security income program the States may add enough to new Federal benefits to make up the difference, with the assurance that their total expenditures will not exceed the expenditures for those programs from non-Federal sources in the calendar year 1972.

The States may add enough to increase the Federal benefits to make up the difference with the assurance that their total expenditures will not exceed expenditures from these programs from non-Federal sources in calendar year 1972. That is the "hold harmless" provision. If the State exceeds the 1972 expenditures, then the Federal Government will make up the difference. Any increases made since January 1972 are at the State's expense. It means that when the Federal benefit is increased, as it is in this bill, the State's supplemental payments must be decreased by the same amount or the State must provide additional funds of its own if it wishes the beneficiary to have the benefits of this increase.

The first SSI payment will be made on January 1, 1974. Because of the fear that States could not make the necessary adjustments in their law or make the necessary plans or financing by that time, this bill provides that the Federal increase on January 1 may be passed on to recipients during the calendar year 1974 at no additional expense to the States.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Chairman, I yield myself 4 additional minutes.

In other words, what we have done is provided for 1 year—and only 1 year—a hold harmless provision for these increases. Remember that we had a hold harmless provision for all of the differential when we first initiated the program.

As an example of how this will work, assume a State's payment, together with income, averaged $200 per recipient in January 1972. The State made plans to provide supplemental payments of $70 with the Federal payment of $130, which is the amount that has been in the law, and the amount we would increase it to is $140.

Without this amendment the State has two options: it can reduce the $70 to $60 so that the income to the beneficiaries will be the same, or else it can provide $10 of its own funds and thus make a $70 payment to the beneficiary and provide the same increase in total income as there is in the Federal benefit.

The committee was very much afraid some States would not be able to make either of these choices in the time available and accordingly provided temporary relief to the States, so that to the extent they have problems they would not be put in an impossible situation on January 1.

These are the principal provisions of the bill.

I would like to assure Members of the House that, as always, we thoroughly considered this matter and have come to you with a reasonable package designed to treat social security beneficiaries fairly and maintain the social security program on a sound actuarial basis.

I strongly urge that the House pass the legislation.

Mr. Chairman, I will include supplemental material at this point in the RECORD.

TABLE 1.—ESTIMATED EFFECT OF SPECIAL BENEFIT INCREASE OF 7 PERCENT, EFFECTIVE MARCH 1974 AND THE PERMANENT 11 PERCENT INCREASE EFFECTIVE JUNE 1974, ON AVERAGE MONTHLY BENEFIT AMOUNTS IN CURRENT-PAYMENT STATUS FOR SELECTED BENEFICIARY GROUPS

Beneficiary group	Average monthly amount		
	Before 7 percent increase	After 7 percent increase	After 11 percent increase
1. AVERAGE MONTHLY FAMILY BENEFITS			
Retired worker alone (no dependents receiving benefits)	$162	$173	$181
Retired worker and aged wife, both receiving benefits	277	296	310
Disabled worker alone (no dependents receiving benefits)	179	191	199
Disabled worker, wife, and 1 or more children	363	388	403
Aged widow alone	158	169	177
Widowed mother and 2 children	390	417	433
2. AVERAGE MONTHLY INDIVIDUAL BENEFITS			
All retired workers (with or without dependents also receiving benefits)	167	178	186
All disabled workers (with or without dependents also receiving benefits)	184	197	206

TABLE 2.—ASSETS AT THE BEGINNING OF THE YEAR[1]

[Percent]

Calendar year	OASDI		HI	
	Present law	Modified system	Present law	Modified system
1973	80	80	36	36
1974	75	72	64	64
1975	70	68	83	74
1976	64	64	95	78
1977	59	63	103	77
1978	56	62	105	72

[1] As a percentage of expenditures during the year for the OASI and DI trust funds, combined, and for the hospital insurance trust fund, under present law and under the system as it would be modified by the committee bill.

TABLE 3.—PROGRESS OF THE OASI AND DI TRUST FUNDS, COMBINED, UNDER PRESENT LAW AND UNDER THE SYSTEM AS IT WOULD BE MODIFIED BY THE COMMITTEE BILL, CALENDAR YEARS 1973–78

[In billions]

	Income		Outgo		Net increase in funds		Assets, end of year	
	Present law	Modified system	Present law	Modified system	Present law	Modified system	Present law	Modified system
Calendar year:								
1973	$54.8	$54.8	$53.4	$53.4	$1.4	$1.4	$44.2	$44.2
1974	61.4	63.1	58.9	61.2	2.6	1.9	46.8	46.1
1975	66.5	68.5	66.6	67.6	−.1	.8	46.7	46.9
1976	72.6	74.8	72.7	73.1	(1)	1.7	46.6	48.6
1977	78.4	80.9	78.5	77.8	−.2	3.1	46.5	51.7
1978	82.0	85.5	82.3	83.7	−.3	1.9	46.2	53.6

[1] Outgo exceeds income by less than $50,000,000.

TABLE 4.—PROGRESS OF THE HOSPITAL INSURANCE TRUST FUND UNDER PRESENT LAW AND UNDER THE SYSTEM AS IT WOULD BE MODIFIED BY THE COMMITTEE BILL, CALENDAR YEARS 1973–78

[In billions]

	Income		Outgo (same under present law and modified system)	Net increase in funds		Assets, end of year	
	Present law	Modified system		Present law	Modified system	Present law	Modified system
Calendar year:							
1973	$11.4	$11.4	$8.1	$3.4	$3.4	$6.3	$6.3
1974	13.1	12.1	9.8	3.3	2.3	9.6	8.6
1975	14.3	13.1	11.5	2.8	1.5	12.4	10.1
1976	15.7	14.3	13.0	2.7	1.2	15.1	11.3
1977	17.1	15.4	14.7	2.3	.7	17.5	12.0
1978	22.0	19.4	16.6	5.5	2.8	22.9	14.9

TABLE 5.—*Effect of H.R. 11333 on unified budget for fiscal year 1974*

[In billions]

Additional outgo:	
Social security benefit increase	$.9
Supplemental security income benefit increase [1]	.2
Total	1.1
Additional income:	
Social security earnings base	.1
Net additional outgo	1.0

[1] Cost of "hold harmless" provision already included in the budget. Without the amendment in the bill, expenditures under the "hold harmless' provision would be about $100 million less than provided for in the Fiscal Year 1974 budget.

Mr. CAMP. Will the gentleman yield?

Mr. ULLMAN. I yield to the gentleman.

Mr. CAMP. I believe the gentleman stated the increased cost of living percentagewise was about 28.8 percent.

Mr. ULLMAN. For the time frame I mentioned the food costs had gone up at a 28.8 percent annual rate. That is right. The across-the-board living cost had gone up 10.3 percent.

Mr. CAMP. I wonder if the gentleman can tell us how much the social security payments percentagewise have gone up.

Mr. ULLMAN. What we have done in this legislation is try and keep exactly abreast of the cost-of-living increases that have occurred and to tide the program over during this interim period so that we can actually have cost-of-living benefit increases coming into effect at the time nearest to the cost-of-living increases so that they can help the beneficiaries. The actual result is here that the increases we have afforded during this year and through next year until the automatic cost-of-living adjustments come into effect will very closely match the actual costs of living that have taken place.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, the gentleman from Oregon (Mr. ULLMAN) has delivered a very thorough explanation of the bill. Therefore, I will attempt to merely summarize essential points of the measure and to make a few additional observations on it.

The bill provides for a 7-percent "flat" social security benefit increase payable in the April 3, 1974, paychecks, and for a further increase in the July 3, 1974, paychecks, bringing the combined increase for the year to 11 percent across the board.

And very importantly, Mr. Chairman, the bill also provides for a quick return to the cost-of-living increase concept in the automatic escalator provision of existing law.

In effect, the action taken under this measure would preempt the first cost-of-living increase, due to take effect in January 1975, but as pointed out by the gentleman from Oregon, H.R. 11333 does provide for a prompt return to the cost-of-living concept. The first automatic increase would be payable in July 1975, and succeeding increases would be payable each July thereafter, if warranted by increases in the cost of living totaling 3 percent or more, based on comparisons between the first quarter of one year and the first quarter of the next.

To finance the 11 percent benefit increase in 1974, the taxable wage base would be raised from its present level of $10,800 to $13,200 in 1974. I might point out that the wage base would go up to $12,600 anyway next year, under current law.

The bill also provides for a transfer of money from the health insurance trust fund equal to one-tenth of 1 percent of payroll, over to the old age, survivors and disability trust funds starting next year. This would be a temporary shift. In 1981 the contribution rate for hospital insurance would be back on the schedule set under current law.

In addition, H.R. 11333 provides for further rate adjustments in future years to keep the trust funds within recommended actuarial bounds.

Finally, the bill advances the increases already provided for the supplemental security income program. SSI payments would be raised under current law $10 per individual and $15 per married couple in July of next year. The bill would advance these raises to January 1, 1974, when the program starts, and would provide for further increases of $6 for individuals and $9 for couples effective on July 1, 1974.

We adopted this portion of the bill without too much disagreement in committee, except for one provision, the so-called hold-harmless provision, under which it is contended that 10 States could raise their SSI benefits at Federal expense. Over the years we have had a discriminatory situation in which the Federal Government has been paying more to the poor in some States than in others, due to the varying amounts that the States were putting into the program in supplemental payments. This was an uneven practice which we attempted to correct when we adopted the SSI program.

The ultimate aim was to make the same Federal payment in all instances, but we included in the original SSI legislation a hold harmless provision to insure that States which were paying benefits above the new Federal payment levels could continue doing so without incurring higher welfare costs than they were incurring in 1972. This was intended to be a temporary provision. But it has been pointed out that we are perpetuating that discrimination in this legislation by permitting 10 States to increase their benefit levels by the amounts of the increases provided in the bill and still come under the old hold harmless provision.

The CHAIRMAN. The gentleman has consumed 5 minutes.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, the Committee on Rules has permitted the gentlewoman from Michigan (Mrs. GRIFFITHS) to offer an amendment to eliminate the hold-harmless provision of this bill, even though it would be extended only for 1 more year. Everyone here knows that once that year is up, a further extension will be sought, and we are establishing a precedent for extension in H.R. 11333. I intend to support the amendment of the gentlewoman from Michigan when she offers it, and I hope it will have the unanimous support of Members on this side of the aisle.

Mr. Chairman, we had a lot of problems in writing this legislation, but those problems did not arise from differences among us with respect to our concern for the aged, poor, and disabled. All of us recognize the necessity to deal with those particular needs, and all of us share equally in our desire to do so.

It is unfair, if not intellectually dishonest, Mr. Chairman, for anyone to claim more compassion or sympathy than others for the aged. This is not just a simple matter of determining who can bid highest in providing additional social security benefits. We are charged with the responsibility of preserving the financial integrity of the system, not only for the present but for the future. This involves providing adequate financing and, of course, it is the taxpayer who must pay the price. Specifically, it is the wage earner in the lower income brackets.

This also involves a problem of fiscal impact. As we know, inflation hurts the poor a great deal more than it does the rest of the population; therefore, we must minimize as much as we can the inflationary fiscal impact which such legislation will have.

Mr. Chairman, every time a social security bill comes up for consideration, there is much debate as to what we want the social security system to be. Do we want it to be a welfare program, or do we want it to be an insurance program? It was intended originally to be a social insurance program, wherein wage earners can contribute to the system during their earning years, and then, during their years of retirement, receive benefits based on those contributions. But because of our concern for the elderly and the disabled, we have attempted repeatedly to meet their financial needs by raising benefits without due regard to the impact such actions might have on the insurance aspect of the system.

More often than not, Mr. Chairman, we have increased benefits the highest for those who have contributed the least to the system. We have provided the greatest percentage increases to those who have other investments and other income. For example, many people who have spent most of their working lives in civil service, retire and receive benefits under that system, then work under social security for a few years and receive minimum benefits under this system also. Social security benefits are heavily weighted in favor of those with lower covered earnings, on the basis of social need. But whenever we increase benefits across the board, this ironically has the effect of helping not only those with the greatest need, but those with the least, as well.

In the meantime, we are soaking wage earners to pay for liberalized benefits.

Mr. Chairman, some of us feel that taxes on wage earners have reached acceptable limits. In fact, one of my colleagues on the committee stated the other day that he felt we might be on the verge of a wage earners' revolt.

Many of these wage earners do, indeed, have severe problems. Those who are at the beginning of their earning years are likely to be in the process of trying to buy a home, trying to raise a family, trying to educate their children, and hopefully trying to put something away for a rainy day. Many of the retirees who benefit greatly from these social security increases do not have such problems. In many instances the social security beneficiaries have paid for their homes, their children are grown and educated, and they have been fortunate enough to have put something aside for themselves.

In this bill, we are raising the wage base to $13,200 a year. The wage earner who is earning that much in 1974 will be paying $772.20 annually into the social security system. That is $140.40 more than he is paying this year. When we add the equal contribution made by his employer—and it should be noted that the employer's contribution is basically chargeable to the employee because it is a fringe benefit that the employee would likely receive in another form if the employer did not have to pay the tax—it brings the total contribution to the trust funds on behalf of the $13,200-a-year wage earner up to $1,544.40 a year, and that is not "peanuts."

In fact, most of the workers covered under social security earn less than $13,200 a year, and many of them now pay more in social security taxes than they do in Federal income taxes.

And the rate of social security taxation is going to continue to go up in future years. We provide for it in this bill. From 5.85 percent of taxable earnings next year, it will go as high as 7.45 percent if Congress does not enact further adjustments. Of course, we might say that a person paying into social security will get his money back later. He will if he lives long enough, and if the system lasts that long.

I submit, Mr. Chairman, that the trust funds are only marginally sound. Contribution rates and taxable earnings are based on actuarial assumptions that are considered questionable by many experts, yet we have modified those actuarial assumptions to suit our convenience.

In 1972 we modified them drastically in order to justify a 20-percent increase. In this switch we shifted to current cost financing. And we already are violating the new guidelines, current cost financing foregoes a large buildup of funds in early years that would provide interest earnings to the trust funds. The latest Social Security Advisory Council recommended that under this new financing assets in the trust funds should be equivalent to about 1 year's benefit payments. The Council said the law should be changed to require the trustees of the funds to report to Congress whenever any of the funds might fall below 75 percent of the amount of the following year's expenditure or would rise above 125 percent of such expenditure.

But what do we have at the present time in the OASDT trust funds? We have a ratio of assets to the following year's benefit payments of under 80 percent, and this is expected to decline, under the bill, to 62 percent. In short, we will have assets declining below two-thirds of 1 year's benefit expenditure.

We also came up with a new set of actuarial assumptions based on "dynamic earnings." This assumes we are going to have an increase in average covered earnings of 5 percent every year and an increase in the cost of living, based on the Consumer Price Index of 2¾ percent annually. With those assumptions and with the increases in benefits throughout the years, it has been contended that the system will remain actuarially sound if we can keep expenditures in line with the income within a tolerance of about minus 0.5 percent of taxable payroll.

However, when we used more conservative assumptions, based on level wages and prices, we were told by the system's actuaries that actuarial soundness called for a tolerance of about minus 0.1 percent of taxable payroll.

Under this bill, we would have a tolerance, or an actuarial imbalance, of an estimated minus 0.51 percent of taxable payroll, which is 5 times greater than the tolerance we once said to be safe. If this figure of minus 0.51 percent of payroll is maintained over a period of 5 years, it will amount to a total deficit of several billions of dollars. So the actuarial soundness of this system at the present time seems to me to be questionable at best.

Mr. Chairman, we can make this system more generous or more liberal, if we provide the money for it. This money has got to come from taxes. There is no other source.

Increases based on the cost of living are proper and fair. But past increases we have provided have far exceeded increases in the cost of living. Since 1950 the cumulative increase in the consumer price index has amounted to 202.8 percent, while the cumulative increases in social security benefits have amounted to 342 percent. Since January of 1970, we have provided a 15-percent increase, then a 10-percent increase, and then a 20-percent increase, for a cumulative benefit increase of 51.8 percent, yet over the same period the cumulative increase in the cost of living has amounted to 23.4 percent.

So social security benefits clearly have not lagged behind cost-of-living increases.

What about the fiscal impact of this bill? This should be the concern not only of the committee, but of all of us.

By providing for a March 1974 increase, we also provide a deficit estimated at $1.3 billion in fiscal 1974.

The committee did consider an alternative, providing for a 10-percent increase effective in July 1974, with a further increase to a combined total of 13 percent in January 1975, and this would have no fiscal impact whatsoever on fiscal 1974.

The committee at one point approved that alternative by a vote of 13 to 12. But the following day, after a motion to reconsider, the committee came out with the bill that we have before us today.

I will say, Mr. Chairman, although I am reluctant to be overly enthusiastic about it, that I believe this is possibly the best compromise we could have come up with. It provides for a deficit in fiscal year 1974 of $1,115 million, but it also provides an adequate cost-of-living increase next year and adequate cost-of-living increases in the future, if Congress will only let the automatic escalator provision take effect.

Let me say briefly in conclusion, Mr. Chairman, that this social security system certainly does not provide a bonanza. It is not a perfect system. I hope we can do a great deal to improve it. We have urged in the committee report, that the next Social Security Advisory Council reevaluate the system, and our committee staff is going to do likewise.

And on the basis of these reevaluations, I hope our committee will take the time to give the program the thorough review and revision which are so badly needed.

In the meantime, Mr. Chairman, I think we should stop threatening the fiscal integrity of the system, by taking ad hoc action.

Mr. Chairman, I yield to the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, I thank the gentleman for yielding to me. I want to commend him and the minority on the committee on the fact that we were able to arrive at a compromise position that would accommodate the senior citizens and would keep the system responsible.

I did not want there to be any misunderstanding. The existing system, the gentleman from Virginia I am sure will agree, without any increases at all would have an imbalance of minus 0.76.

Mr. BROYHILL of Virginia. That is correct.

Mr. ULLMAN. And what we have done, we have given the increases and brought the system back into an imbalance of minus 0.51, which is just about the target, the outer limit where we could afford to be, so one of the most significant features of this bill is that it does bring the social security system back into the right kind of actuarial balance, tolerance we can stand.

Mr. BROYHILL of Virginia. Mr. Chairman, I thank the gentleman for helping me to emphasize my point. It is correct, the action we took in 1972, providing for a 20-percent increase, did throw it out of balance by minus 0.76 of 1 percent. This bill does bring it closer to balance by minus 0.51, but we do not leave ourselves any margin for error on the low side.

Mr. Chairman, I yield such time as he may consume to the ranking minority member of the Committee on Ways and Means, the gentleman from Pennsylvania (Mr. SCHNEEBELI).

Mr. SCHNEEBELI. Mr. Chairman, I expect to vote for H.R. 11333 with reservations.

Let me emphasize that my reservations has nothing to do with granting increases to social security beneficiaries

as soon as feasible in the light of rapid advances in the cost of living. I strongly support such action. But that is not the real issue here.

As a matter of fact, we already have provided for automatic increases in benefits equal to increases in the cost of living, and the legislation before us today merely accelerates that process.

Under the automatic escalator provision of current law, beneficiaries would be eligible by January 1975 for an estimated benefit increase of 11.5 percent which they would receive in two installments: A 5.9 percent down payment in July of 1974 and the remainder, about 5.6 percent, 6 months later.

Under the bill before us, beneficiaries would receive a total benefit increase of 11 percent next year, also payable in two installments: A flat 7 percent in April and the remainder in July. Under this proposal, the automatic escalator provision would be suspended temporarily and would not pay off again until July of 1975.

The essential difference lies in the timing of the increases, and my reservation is not primarily based on this.

My disagreement with this legislation is based upon the way in which this measure has been considered. We have followed what has become an unfortunate pattern—set by the other body—of hastily legislating substantial increases in benefits without taking the time to review with care the impact of such action on the social security program in general and on the workingman who pays the taxes in particular.

We have, for example, enacted one benefit increase after another without looking closely at other possible program needs, such as providing greater equity for workingwomen who pay a higher proportionate of benefit costs without a commensurate return.

We have changed radically the actuarial methodology underlying the financial structure of the system, without any committee consideration of the consequences.

And we have added greatly to the burden borne by the nearly 100 million Americans who make the current contributions which are necessary to pay current benefits. This bill alone would increase the maximum tax for each covered employee and employer by 22 percent from this year to the next.

The weight on these taxpayers is already heavy. A man with a wife and two children and an income of $7,000 a year now pays more social security taxes than he does in Federal income taxes. The more we add to the costs of the social security system, the more we add to the tax load on the back of this family.

In fairness to those who have so much invested in the social security system, and to those who will invest in years to come, we simply must take the time in the future to weigh new program costs against the burdens they will impose on the taxpayer. We owe it to them.

Mr. Chairman, these are the bases of my reluctance. I will vote for this bill, because I believe that the nearly 30 million social security beneficiaries do need the assistance it provides. I only hope that the other body will show restraint and not add to its cost. The sooner the automatic escalator can become operative, the better it will be for both taxpayer and beneficiary.

Mr. KETCHUM. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count; 42 Members are present, not a quorum. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 583]

Anderson, Ill.	Duncan	Melcher
Ashley	Erlenborn	Mills, Ark.
Bell	Esch	Mitchell, Md.
Blackburn	Evins, Tenn.	O'Brien
Blatnik	Fraser	O'Hara
Bolling	Gialmo	Peyser
Brademas	Gray	Rees
Brasco	Hanna	Reid
Burke, Calif.	Hansen, Wash.	Rostenkowski
Carney, Ohio	Hastings	St Germain
Chappell	Hébert	Slack
Chisholm	Horton	Smith, N.Y.
Clark	Keating	Stephens
Clay	Kluczynski	Stokes
Collins, Ill.	Kuykendall	Stuckey
Conlan	Leggett	Teague, Tex.
Culver	Long, La.	Udall
Davis, Wis.	McClory	Wolff
Dellums	McKinney	
Diggs	Madden	

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. DINGELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11333, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 375 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The Chair announces the time remaining as 1 hour and 6 minutes for the majority, 1 hour and 10 minutes for the minority.

Mr. ULLMAN. Mr. Chairman, I yield 15 minutes to the gentlewoman from Michigan (Mrs. GRIFFITHS).

Mrs. GRIFFITHS. Mr. Chairman, I apologize for offering this amendment. I should have offered it in the committee itself, but I thought we were going to have another day before we had a firm commitment. Nevertheless, I should like to thank the members of the Committee on Ways and Means and the members of the Committee on Rules for permitting me on this occasion to offer the amendment, because I feel that the amendment is not only necessary, but I feel in addition it will help explain these income maintenance programs to everyone, and the total inequity of all programs.

The amendment that I will offer tomorrow is to strike lines 11 through 22 on page 11 of the bill, H.R. 11333. The issue in this amendment which relates to the so-called hold harmless provision seems complicated in its ins and outs, but it is very simple in principle.

As Federal legislators, there is at least one principle that we can all agree to. This principle is that as far as the Federal Government is concerned, a poor, aged, blind, or disabled person has the same claim on the Federal Treasury, no matter where he lives. Someone's health and comfort should not be worth more in one State and less in another in terms of Federal dollars.

The bill reported out of committee which we are considering today would negate this very principle, a principle which we adopted when we enacted SSI. It would allow up to 10 States to pass along to their residents the increase in SSI which the committee has proposed, and thereby add to their already generous State benefits with full Federal funding. My amendment would restore the principle of equal Federal dollars for equally needy people.

As we know, now in our Federal and State welfare programs we put Federal dollars on the stump and let States claim various amounts, depending on their fiscal capacity and their generosity. As a result, an old person with no other income gets as small a check as $75 per month in Mississippi and as much as $239 per month in New York.

When we adopted SSI last year, we said that this approach was wrong and that the Federal Government should be more evenhanded, so we established SSI as a national program with a uniform basic benefit level to be fully funded by the Federal Treasury. And we specifically ended Federal matching of State benefits. But we did not feel we could arbitrarily turn our backs on States that already pay more than SSI will pay, and that could be hurt financially under SSI by maintaining current benefit levels. So under SSI we adopted a hold harmless provision. This provision insures that States can continue to pay benefits at about the same levels they were paying in 1972 and not suffer higher welfare costs than they incurred in 1972. States were specifically to be protected against caseload growth if such growth would require greater outlays than in 1972, but benefit increases were to be their own financial responsibility.

We knew that if we increased SSI in the future this would help the poorest recipients and it would also take over more of the cost in States which supplement the basic SSI benefits. Now under H.R. 11333 we are proposing to start the SSI programs with higher benefit levels than orginally planned, but the Ways and Means Committee has proposed to allow States to raise their benefit levels by the amount of the January SSI increase and still come under the hold-harmless provision. That is, as many as 10 States could raise their benefit levels largely or wholly with extra Federal expenditures.

Where we pay $15 into Ohio, that is, we could pay as much as $30 into Michigan or into Wisconsin. This departs from the principle that the Federal Government is going to be more even-handed among recipients.

When we look at the benefit levels some of these 10 States already pay and

intend to pay under SSI we can see the folly of using Federal funds to raise them even further. These are the States we are talking about helping: Michigan, my own State; California; Hawaii; Massachusetts; New York; Nevada; New Jersey; Pennsylvania; Wisconsin; and possibly Rhode Island. Everybody else would pay Federal taxes to help finance their increases.

Many of these States already pay benefits well above the poverty line, and every one of these States, but Wisconsin is paying the full need of any of their recipients and Wisconsin pays 98 percent.

I hope all Members will listen to this. This provision would allow California to raise its payment amount for an aged couple from $394, which is 76 percent over the poverty line, to $409 a month. The average social security payment for a retired worker and dependent spouse in California is $243.20, but we are going to pay under SSI and State supplement $409 a month to a couple in California under this committee provision.

Massachusetts would go from $340.30 to $355.30 for a couple and their average social security for a retired worker and spouse is $249. Wisconsin would go from $329 to $344 for a couple, and their average social security is $245.18. New York would go from $294.51 to $309.51 for a couple, with an average social security of $259.08.

Michigan is one of the few States that now has a higher social security average payment to a retired worker and spouse than they would have on welfare. Meanwhile, couples in States such as Arkansas, Indiana, North Dakota, Ohio, Utah, West Virginia, Missouri, Montana, Texas, Wyoming, Delaware, Georgia, Connecticut, and others will probably be getting only the basic SSI benefit of $210 a month.

These differences in State payment levels are far greater than the differences in the cost of living between these States. I have researched this question specifically. The differences more truly reflect differences in State standards of living, and so using Federal money to increase State variations is wrong. This optional benefit-increase pass along means we would be paying for benefit increases above the SSI level in Detroit but not in Chicago, but the cost of living is higher in Chicago. We would pay for higher than SSI benefits in Milwaukee, that is the Federal Government would pay it, but not in Minneapolis, and the cost of living is higher in Minneapolis; in Honolulu but not in Miami Beach; in Boston, New York, and Philadelphia, but not in Baltimore and Norfolk.

I want the Members to look with me at a specific case. The highest benefits now and the highest supplemental level under SSI is in California.

Under the committee provisions California could have the Federal Government pay for the entire cost of increasing its payment for an old couple from $394 to $409 per month.

I want to point out that the average retired worker and dependent spouse in California gets only $243.20 a month from social security and the maximum in social security that anybody can get in the entire United States now for a man and wife is $399.20. But under this committee provision we are going to pay on SSI and State supplements, $409. Why pay taxes?

California's current payment level is only $5 now below the maximum social security benefit anywhere in the country. So we would be helping California pay more in welfare than a retired worker and his wife can get now from social security anywhere.

Theoretically, any person drawing social security which is less than the SSI benefit, will be given some SSI benefit or State supplement; but some social security beneficiaries would not get it, because they could not pass the asset test. Because of the asset limitations in SSI itself, it is entirely possible that the average social security retired worker and his dependent wife in California drawing $243 only could be excluded from SSI and from State supplementary payments.

This situation cries out for correction much more than raising California's benefit levels.

We cannot have someone who never saved, never contributed to social security, walking away with handsome social security benefits while a frugal social security beneficiary cannot qualify for welfare, with the result of much less income.

If we want to spend $175 million, let us correct the asset test to present recipients, whether social security or welfare, on an equal basis.

Now, look at a retiree and his wife who get the minimum social security benefit of $126.80 a month. Even without the pass-along in California's benefit level in January of 1974, this couple will have a total income from social security, SSI, and State benefit supplements, of $414 a month, because SSI and the State must ignore $20 in social security in computing welfare benefits. With the pass-along, California would guarantee this couple the grand total of $429 a month and, if this couple had average medical expenses, they would have medicaid reimbursement of $908 a year, for a grand total of $6,056 per year.

Think back to what aged couples will get in your State if you are not one of these 10 States. Most are going to get $210, or they may get only social security, which is even less, because of the asset test. Ask whether you think this optional pass-along provision benefiting only a few rich States is a wise and fair use of Federal funds. If we compare the $6,056 in cash and medical benefits that the minimum social security and SSI and State supplement beneficiary can get in California with the average payment to an aged couple under social security in California which is $243 per month——

The CHAIRMAN. The time of the gentlewoman from Michigan has expired.

Mr. ULLMAN. Mr. Chairman, I yield 5 additional minutes to the gentlewoman from Michigan.

Mrs. GRIFFITHS. You will also realize that that person drawing only $243.20 will have to pay $12.60 per month for part B medicare coverage, and he will pay for every pill he takes outside of a hospital. For the State supplement and SSI beneficiary, it is all free.

Nobody wants to see our elderly, blind or disabled citizens living in shameful conditions. So we must channel the Federal dollars where they will do the most good, raising the SSI levels generally and not helping the richest States to do what is relatively easy for them to do on their own. If they want to raise their benefit levels, let them do it, but if the Federal Government is to provide the funds for them, let us do it for every State.

Some people apparently feel that their State legislatures will not be generous and automatically pass on the SSI increase. They may be right, but it is not fair to pass the buck to this body and say, "You do what my legislature will not do, including pay for it."

Now, let me point out to the Members that while we would raise it to $409 in California, in Illinois, Ohio, Minnesota, Iowa, Virginia, and all other States outside of the 10, the minute they go over $210, they have got to pay every dime of it themselves, every penny, but what the rich States want is to raise it to almost twice what the poor States have guaranteed to these recipients and they want the Federal Government to pay for it.

Now, some say that this pass-along provision would apply only for 1 year and we should not worry about it. We all know that once special provisions and protections get written into the law, it is always easy and convenient just to continue them. So, if we continue this provision we would be locking ourselves into this special hold-harmless arrangement for only a handful of States.

Some people are apparently upset by the thought that States below their hold-harmless levels, especially those with modest benefit levels, will reap fat savings, because of SSI in general and the SSI increase in particular. In fact, however, because of caseload growth and certain mandatory medicaid requirements under SSI, these States will be paying out much more for medicaid than they ever did in the past, and there has not been one proposal that we help these States.

In summary, Mr. Chairman, we should follow the turnabout in Federal policy that we achieved by enacting SSI.

We are Federal legislators whose responsibility it is to determine priorities in the use of Federal funds. I submit that the optional pass-along is not a priority use of Federal funds, and I urge my colleagues to support my amendment, which I will offer tomorrow, striking it from the bill.

Mr. Chairman, I would like to point out to the Members that the best we can figure out is that the total cost of the pass-along arrangement next year will be $175 million, and 70 percent of it would go to two States: California and New York.

Mr. BURTON. Mr. Chairman, will the gentlewoman yield?

Mrs. GRIFFITHS. I yield to the gentleman from California.

Mr. BURTON. Mr. Chairman, first I would like to commend the gentlewoman from Michigan, particularly on the one

point she expressed, on which I hold full agreement.

One of the inequities resulting from the SSI legislation is the assets limitation—that discriminates against some low income aged, blind, and disabled. It is an unfairness which I hope some day will be corrected.

The gentlewoman made the point that an assets test, a so-called resource test, is really irrelevant and inequitable. She is correct on this point.

The CHAIRMAN. The time of the gentlewoman from Michigan (Mrs. GRIFFITHS) has expired.

Mr. ULLMAN. Mr. Chairman, I yield 4 additional minutes to the gentlewoman from Michigan (Mrs. GRIFFITHS).

Mr. BURTON. Mr. Chairman, will the gentlewoman yield further?

Mrs. GRIFFITHS. I yield further to the gentleman from California.

Mr. BURTON. So, Mr. Chairman, I would hope some day that the Committee on Ways and Means would look objectively at the assets test and, hopefully, that they would reach the conclusion which apparently has been reached by the gentlewoman from Michigan, that point being that a good income test should be the sole yardstick, such as we have in the veterans' pension program, and we ought to dismantle this very cumbersome and expensive-to-administer, so-called assets test.

Mr. Chairman, the situation is even more unfair than the gentlewoman indicated. It is not just considering the person living on social security in a State where the benefits may be a little higher than the average. There are people receiving social security benefits at the minimum level who are ineligible for SSI only because they may not have the assets in some form that is contemplated in the regulations, the regulations I might say which are promulgated by the Department of Health, Education, and Welfare and that are in themselves onerous and burdensome.

Mr. Chairman, there is one additional point I would like to establish, if I may, while the gentlewoman has the time, and that is this: That point, simply stated, is that under the current law every State in the Nation is entitled to no less than 50 percent matching for the adult public assistance program, and this scale graduates up to, I believe, 83 percent in the lower per capita income States. But all the States today have matching ranging from 50 percent up to 83 percent.

This financing is completely rearranged, under the new SSI program, ultimately to protect the Federal interests and the Federal taxpayer.

The new SSI financing arrangement will work as follows: In more than half of the States, the existing matching is increased from the current 50 to 83 percent, to, starting in January, a 100-percent Federal program, resulting in a cost reduction, therefore, of from 17 to 50 percent for more than half of the States.

However, in the instance of the higher cost of living, higher grant States, the matching for those States is no longer 50 percent, their percentage of Federal assistance has not increased. To the contrary, it has been effectively reduced to something on the order of from 50 percent down to 30 percent.

Mrs. GRIFFITHS. Mr. Chairman, right there I cease to yield to the gentleman.

The truth is that there is no State that is now getting less than 50 percent under the $210 figure, or old-aged assistance. The gentleman is discussing his total welfare bill, State supplements, and so forth. They will continue to get 50 percent until it reaches $220. So there is no trouble from this. You are getting more money and saving money.

Perhaps I should point out that many States are not included. California and New York are switching their general assistance recipients, some so-called "disabled" and AFDC people onto this SSI program.

There are savings going on all through this. You are really not being hurt.

Mr. BURTON. I am sure the gentlewoman wants to correct her remarks in the RECORD, because I am sure she would not want the RECORD to reflect that every State gets more than 50 percent matching until the benefits get over $210 or $420. I am certain the gentlewoman does not want that absolutely incorrect statement to appear in the RECORD.

Mrs. GRIFFITHS. I want it shown that the gentleman's State gets more money out of this than they ever had before. So please do not say I am incorrect. I am correct.

The CHAIRMAN. The time of the gentlewoman has again expired.

Mr. ULLMAN. I yield the gentlewoman 1 additional minute.

Mr. BURTON. Will the gentlewoman yield?

Mrs. GRIFFITHS. I yield to the gentleman.

Mr. BURTON. May I complete my question of the gentlewoman?

If the gentlewoman will yield, as I stated earlier, come January the higher cost of living or the higher grant States, whichever you choose to call it, have their effective Federal matching reduced from 50 percent down to roughly 30 percent.

Mrs. GRIFFITHS. Oh, no. I refuse to yield any further.

Mr. BURTON. I have not made my point yet.

Mrs. GRIFFITHS. It is not true at all. It is absolutely not true.

I yield back the balance of my time.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. CLANCY).

Mr. CLANCY. Mr. Chairman, I rise in support of H.R. 11333, which provides for a social security benefit increase that social security beneficiaries need and that is appropriate in view of the inflation that has occurred since the last increase.

The bill provides a two-stage social security benefit increase totaling 11 percent to approximately 30 million Americans, and makes an important modification in the timing of the automatic cost-of-living benefit increase provision in existing law. The bill provides a flat 7-percent social security benefit increase effective in March of next year, payable April 3, and an additional 4 percent in June of 1974, payable on July 3. The combined increase will be 11 percent by June of next year.

The cost of living has increased since September of last year—the date of the last social security increase—until September of this year by 7.4 percent. It is estimated that when this 11-percent increase is fully effective, the 7.4 percent figure will have increased to around 11 percent. This bill will, therefore, keep benefits up to date with the cost of living. This is particularly important for social security beneficiaries since most of them have been affected significantly by increases in the price of food, which has increased much faster than other components of the Consumer Price Index. Many social security beneficiaries spend a higher proportion of their income on food than other groups in the population.

While admitting the necessity to deal with the immediate need this benefit increase addresses, it is also critical, in my opinion, for the Congress to avoid this kind of ad hoc action in the future. This can and must be accomplished by insuring that the provisions enacted in Public Law 92–336 and amended by this bill providing for automatic increases in social security benefits based on rises in the cost of living become operative as soon as possible.

Under present law, the cost of living for the automatic benefit increase provisions is measured from the second quarter of one year to the second quarter of the next year with any benefit increase payable for the following January. This legislation changes those time periods to the first quarters of each year and makes any resulting automatic benefit increase payable for the following July.

Under this change, the first automatic cost of living benefit increase will be possible for July of 1975. This is a meaningful step toward the goal of eliminating the need for ad hoc benefit increases,

I agree with many of my colleagues that the committee should at the earliest opportunity conduct a fundamental review of the social security system, giving particular attention to the financing aspects of the program. While the system as amended by the bill is actuarially sound, significant changes adopted in recent years must be carefully reviewed by the committee to assure the long run health of the program. In this connection, the committee has ordered the staff to conduct a study and expressed the hope that the new Advisory Council on Social Security will be promptly appointed. These will be valuable resources to the committee when we conduct our review, which I hope will be at the earliest possible time.

Mr. Chairman, this bill is an appropriate response to the present circumstances and I support it.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado (Mr. BROTZMAN).

Mr. BROTZMAN. Mr. Chairman, I support H.R. 11333. The social security benefit increases which the bill provides for calendar 1974 are in line with cost-of-living advances, up-to-date and pro-

jected, under the automatic escalator provision of current law. The measure, in effect, speeds up the payment of these benefits, and I think this clearly is warranted because of the rapid rises in the cost of living in recent months.

The substance of the bill has been described in detail by other members of the Committee on Ways and Means, and I will not belabor these points now. Suffice it to say the measure provides a two-step benefit increase next year totaling 11 percent, with the first installment, equaling a flat 7 percent, payable in April social security checks, with the remaining 4 percent, payable in the July checks. The bill also provides for resumption of the triggering mechanism in 1974 in order that the first automatic escalator increase could be paid in July of 1975, which is only 6 months later than would be the case under present law. I feel strongly that both program beneficiaries and taxpayers would be better off in the long run under the automatic escalator and I hope it can become operational according to the schedule set through this bill.

I also hope that the Committee on Ways and Means can undertake next year a full-scale review of the social security program with a view toward bolstering its individual equity aspect. This should be done in fairness to the many millions of Americans who are now making contributions in the expectation of receiving commensurate benefits in the future.

Mr. Chairman, while the financing of the program under the law as amended by this bill leaves the system on an actuarially sound basis, we have made fundamental changes in the program in recent years. I agree with my colleagues that at the earliest opportunity the Ways and Means Committee should carefully review the changes in actuarial methodology that we have adopted. In this connection, we also should review the relation of social security to other private income security mechanisms. I hope we will have an opportunity to make this study in this Congress, and that the staff work ordered by the committee report as well as the studies conducted by the new Advisory Council will be commenced immediately so that they are available to assist the committee in its deliberations.

Mr. Chairman, I believe the bill before us is responsive to a real need and I join in support of the measure.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 11333, providing for an 11-percent increase in social security benefits for our older Americans.

Escalating prices over the past few months has made living more difficult for all of us, but has taken the greatest toll on our senior citizens, many of whom barely subsist on inadequate incomes.

Poverty is a constant threat to our senior citizens. Over one-fourth of our 29 million older Americans fall far below the poverty level. As the costs of housing, transportation, health care, food, and clothing continue to skyrocket, the burdens upon our senior citizens, living on fixed incomes, forces them more and more into poverty-level existence.

In traveling around my congressional district I am continually confronted with the distressing fact that many of our elderly simply cannot absorb any more additional costs. They find themselves faced with the alternative of scrimping on food, health care, and other basic necessities. In our prosperous Nation, this is shameful.

To illustrate my point, permit me to read a letter I recently received from an older American in my district:

DEAR CONGRESSMAN GILMAN: I am a 77-year-old widower trying to live this life as best I can. My social security check is $181.70 a month. I pay $75.00 a month for rent and I don't have all the facilities, not even a shower or bathtub. My food payment is very restricted and not less than $17 to $18 a week and when the month has five weeks my food costs a little over $80.00. I need to have a phone in case of emergencies and my monthly bill is a little over $10.00. My light and gas bill is about $11.00 to $12.00. I have not too much house insurance, still I pay a little over $6.00 a month. Medicare is going up, so from July on I pay $6.30 a month and for Blue Cross and Blue Shield $1.70 a month. All this adds up to $190.00 a month. What am I going to do if I need to buy a pair of shoes or stockings or a shirt or any other things which a person needs.

This pathetic letter and dozens like it underscores the dire need for increased social security benefits so that our older Americans can afford to purchase that "pair of shoes or stockings or shirt" or other essential items.

Social security benefits and public assistance programs provide senior citizens with over 50 percent of their incomes. While the increases we are considering today, 7 percent effective in March of 1974 and an additional 4 percent in June of 1974, are in no way exorbitant, these increases will provide some measure of relief to our elderly whose fixed incomes have not kept pace with the increased cost of living.

For some time now I have been urging an increase in social security benefits for our elderly by appealing to the Ways and Means Committee and by introducing legislation identical to the bill we are now considering. I implore my colleagues, in casting your votes on this bill, to consider the plight of our senior citizens who are caught in the crunch of high prices. I urge the immediate and resounding adoption of this measure.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. I thank the gentleman from Virginia for yielding me this time.

Mr. Chairman, I should preface what I am about to say by assuring Members of this body that I am certainly a strong supporter of the social security system. I feel it was one of the great landmarks of social legislation since the turn of the century.

At the same time, in making an evaluation of the program as it is on the one hand and recognizing the fact that you do reach what might be called the outer limits in terms of the future, I am constrained to remind Members of the House as we move along and increase social security benefits that we cannot do so blinding ourselves to the direction in which we are traveling. We cannot do so blinding ourselves to what the cost of the program is and how it will fall upon the young people who today are going into the labor market.

Perhaps it is not politically expedient to look at the program in these terms, but indeed, as intelligent people, we must.

The social security program, as I am sure most of the Members know, began in 1937 and, I repeat, it was a landmark piece of social legislation that certainly must be preserved as a way of life in this country. Since that time the social security payroll tax upon the employee, excluding the matching contribution which the employer properly pays, has gone up nearly 1,000 percent. It will go up, under this proposal, to a tax of $742.50 on the average working man, the average employee, and creates a situation, to get it into perspective, where more people will be paying more in social security taxes than indeed they will in income taxes.

Now let us see—and this should shake your eyeteeth—what would happen if the employee took his own contribution which, under this bill, will involve in combination with the employer contributions, $1,544 a year. Compounding his portion at interest—and if you do not believe this is accurate, then get a computer and computerize it, as I have done—compounding the interest, assuming that we did not increase the payroll taxes one thin dime after next year. The fact is that employee would have in his own account merely by putting this into a savings account each year at a rate—and we are going to assume that not even interest rates will go up—of 6 percent. That employee would have in his account at the age of 65, assuming he went into the labor market at the age of 23, $119,311.

Now, if that same annual investment, the combined contributions of the employee and the employer, were saved at a modest rate of 6-percent interest per year, at the end of those 42 years in that account, would be $221,863.

Those are the figures. I leave that with you because I believe, most sincerely, that as we must recognize the problems of our elder citizens, and we certainly must and as I said before, without blinding ourselves to the tax and cost factors. Can we proceed on our present course in the light of these figures? I leave it to my colleagues for thought.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield 10 minutes to the gentleman from Texas (Mr. ARCHER).

Mr. ARCHER. Mr. Chairman, it is with a desire to protect the soundness of the social security fund upon which retired Americans depend, and at the same time give consideration to the working taxpayer who provides the necessary dollars, that I rise to speak against some

of the far-ranging provisions of H.R. 11333.

In the last 3 years Congress has enacted pervasive changes in the financing of the social security system with inadequate regard to the impact these measures have on present and future generations of Americans.

The social security program has provided economic security for nearly all Americans for more than one-third of a century. But hastily considered changes of the most fundamental nature can only undermine the protection against loss of income that those paying social security taxes rightly expect.

Last July when the committee provided a 20-percent across-the-board benefit increase, dramatically different assumptions were adopted in measuring the actuarial soundness of the program. The most significant of these changes involves the assumption of "dynamic earnings," whereby the actuaries make projections about future earnings levels throughout the entire 75-year period covered by the estimates. This new system subjects cost estimates to vicissitudes that the actuaries have not had to deal with in the past. It is a complex new methodology, and it is not without controversy.

The former Chief Actuary of the Social Security Administration, Mr. Robert J. Myers, who has more experience with this system than any other human being and is widely regarded as one of the foremost actuarial experts on social security, stated that "this would be an unsound procedure." He went on to state:

> What it would mean, in essence, is that actuarial soundness would be wholly dependent on a perpetually continuing inflation of a certain prescribed nature—and a borrowing from the next generation to pay the current generation's benefits, in the hope that inflation of wages would make this possible.

In view of this admonition by a leading expert who has devoted his whole life to the program, the Committee on Ways and Means and the House of Representatives should have carefully examined these new assumptions in 1972, but did not because the bill came up late in the session and passed rapidly on the floor of the House. We should certainly at this time have examined these new assumptions carefully before providing an additional benefit increase. However, the committee reported the bill without serious examination of this new methodology.

In response to my questioning, the Chief Actuary, Mr. Frank Bayo, made it clear to the committee that the new methodology represents "a fundamental change," that "it is more difficult to make estimates on the new basis than it was in the past," and that estimates are now "subject to wider variations on the basis of actual experience."

In the past it was assumed that actual experience would vary from the estimates by no more than 1 percent of the projected level costs of the system. The actuaries tell us that under the new methodology, including the "dynamic earnings" concept, actual experience will vary by as much as 5 percent. But in spite of a greater degree of actuarial uncertainty the committee has made it clear that while 1 percent was as much of an imbalance as could be tolerated in the past, they will now tolerate an imbalance of 5 percent. Put another way, although the estimates are subject to experience variations five times as great as in the past, the committee will now tolerate a deficit in the system five times as great as in the past, and makes no provision downstream in these 75-year estimates for that deficit to be picked up.

The committee in effect has said that because the actuary's projections are less precise and will vary greater, that we can have a greater deficit in the program. In view of this new actuarial imprecision the committee should have provided for a 5-percent surplus to assure that if a mistake on the downhill side occurs we will still have enough money in the fund, but instead the committee has provided for a planned 5 percent deficit in the fund.

Let me tell my colleagues what this 5-percent deficit means. It means that during the projected 75-year period the fund will accumulate $225 billion less than is necessary to pay the benefits which we are promising to our retired older Americans. That is the amount of deficit that the committee bill permits to exist in the program. Furthermore, if the actuary's projections are off, as he says they might be, by a minus 5 percent, there will be an additional $225 billion deficit, resulting in a possible cumulative shortage of nearly one-half trillion dollars during the 75-year estimate period. These are truly astronomical figures.

I refer the Members of the House to my dissenting views in the committee report for a more detailed evaluation of my concerns as to the soundness of the new basis on which we are planning the future of the social security fund.

Additionally, in 1971 the Social Security Advisory Council recommended to the Ways and Means Committee that assets in the trust fund should at all times equal approximately 1 year's benefit expenditures but despite this recommendation the committee in this bill has placed its conscious seal of approval on a program that will result in a reduction of the fund to only 62 percent of 1 year's benefits.

Now, let us talk about the cost of living. I share the committee's desire to see that increases in benefits keep up with inflation. Retired Americans need and deserve this consideration. The facts show that we have been doing more than is necessary to achieve this goal.

From January 1, 1970, through September 30, 1973, the latest figures available at this time—social security benefits have risen by 51.8 percent, and yet during the exact same period the cost of living has increased by only 19.6 percent. We have also already enacted this year, with my support, an additional 5.9 percent increase effective next June. When the expanded 11-percent increase in this bill takes effect next June the benefits will have been increased since January of 1970 by 68.5 percent, and the inflation during that period is estimated to be 24.4 percent.

Let me also provide figures back to 1968. From January 1, 1968, until January 1, 1973, the cost of living has gone up by 25.1 percent but the social security benefits have gone up by 71.5 percent during that same period of time.

I am concerned that the cumulative benefit increases in recent years, combined with the increase in this bill, are requiring too large a rise in the already heavy payroll tax burden borne by the workers of this Nation. It is alarming to note that over 50 percent of our wage earners now pay more in social security taxes than in income taxes. If this bill passes, in January of next year the taxable wage base will go from $10,800 to $13,200 per year. This means that those employees earning over $10,800 will face a tax increase of as much as $280.40, including the employer's contribution; and that the total maximum combined employer-employee tax will now be $1,544.40 for each worker. This bill also levies on the self-employed earning over $10,800 an increase in annual taxes of up to 20.7 percent or $178.80. And a maximum total annual tax of $1,042.80. There are 20.5 million people in the United States who are making over $10,800 and this group of people is singled out to bear the brunt of the cost burden for the entire across-the-board increases in this bill.

In addition to increasing the taxable wage base from $10,800 to $13,200, there is a subtle increase in the tax rate, which will apply to everyone in 1981. At that time the tax burden will rise to 12.6 percent of covered payroll. Even with this added tax we still leave the fund with a projected actuarial deficit of 5 percent.

Another objection to this bill is that it delays the effective date of cost of living benefit increases provided in the 1972 law from January 1, 1975, to July 1, 1975.

Now, if we consider the burden we are already imposing on today's workers, we should stop postponing the automatic benefit increases provided in the 1972 law and let the escalator clause begin working. By postponing the operation of the system the committee creates the danger that benefits will be continually increased on a political basis rather than a cost-of-living basis. Before even tasting the cake we baked in 1972 we are now putting it back in the oven to bake it again, and running a grave risk of burning it up.

I have other reservations, Mr. Chairman, about this bill.

We should examine elimination of the retirement test so that older people who have paid in their money to social security can still draw their benefits when they desire to continue working. Beginning in January, a recipient cannot earn more than $2,400 a year without suffering a loss of his social security benefits which he rightly deserves. This puts him in a different position than people retiring on most every other type of program in the country. I think it is greatly unfair.

We have talent in our older people, talent that is being prevented from implementation in our system through this limitation. If individuals pay into the system all of their lives in order to receive wage-related benefits as a matter of right when they retire at age 65, they should receive these benefits and not be

penalized because of the individual life style they prefer to follow in their later years, that is, if they prefer to work.

For further reservation about this legislation, I associate myself with the comments of the gentlewoman from Michigan (Mrs. GRIFFITHS), who has done an outstanding job in pointing out objectionable provisions for Federal funding of supplemental State benefits under SSI. Under this bill, for example, Texas taxpayers would be asked to pay a portion of the cost of higher welfare payments in the State of New York.

Let me talk again about the matter of inflation. The impact of this legislation will cause a unified budget deficit in fiscal year 1974 of $1.1 billion and an additional deficit of $1.15 billion in fiscal year 1975. These deficits will have a further inflationary impact across the board for all Americans.

On top of that this bill sets up an administrative burden of implementation unprecedented in the history of this country. Never before have we passed two separate social security increases effective in one calendar year. Yet this bill does.

Compounding this administrative problem the committee has added two increases in the same calendar year on SSI—supplemental security income—Federal welfare payments. The effect of double increases in both social security and SSI will result in extra administrative costs of over $4 million to HEW in computing and delivering accurate benefit checks.

In conclusion, Mr. Chairman, we must strengthen the insurance basis of the social security system if it is not to simply become another welfare program. Such a result would be a tragedy to millions of Americans who pay social security taxes during their working years with the expectation that they will receive benefits as a matter of right when they retire.

I am also concerned that the increase in expansion of social security may unduly impinge on private economic security measures. Social security is an important part of the retirement plans of nearly all Americans, but they should remain free to express individual preferences about current consumption and savings. When they choose to save they should have alternatives to a compulsory Government program.

Mr. Chairman, there comes a time when we must ask ourselves, "Where are we going?" There comes a time when we must be concerned about the degree to which we are mortgaging our children's earnings, when we must be concerned with the tax burden on the workers of today and when we must be concerned with the soundness of the fund which all retired persons depend upon for their later years in life. In my opinion, that time is now.

I do not think this bill makes us stop and take a thorough inventory of where we are going, not when we are consciously reducing the fund to only 62 percent of 1 year's projected benefits, not when we are subjecting the fund to a possible deficit of one-half trillion dollars during the 75-year period covered by the estimates.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Chairman, I wish to compliment my colleague from Texas for his very thoughtful and rational presentation of some substantial defects in this legislation. I know it is not easy, and that the social security system has become a sacred cow; but no one is really willing to take a hard look to see if the kind of problems the gentleman has suggested are real or unreal.

I know it takes a special kind of courage to do this. I compliment the gentleman. I believe he has made some very rational points.

My colleague Mr. ARCHER has reviewed the following facts:

First. This House with this bill H.R. 11333 will have increased the benefits by 68.5 percent since January 1970, while the Consumer Price Index has only gone up 19.6 percent in the same period.

Second. This represents a tax increase for 20 million middle-income Americans who tend to bear more and more of the burden of government.

Third. The committee has failed to properly evaluate the actuarial assumptions with the end result that the cost will undoubtedly be much more—in billions of dollars—which means more deficit financings; that is, more tax dollars for interest charges for debt.

He has made it clear that he does not want to destroy the system, but improve it and eliminate unnecessary compulsion. I think he is to be complimented for trying to bring this to the attention of the House.

Mr. ARCHER. Mr. Chairman, I thank the gentleman from California for his comments.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. WIDNALL).

Mr. WIDNALL. Mr. Chairman, I am pleased to rise in support of this bill, H.R. 11333.

To briefly summarize the legislation, it provides for a 7 percent increase in social security benefits in April 1974, and an additional 4 percent increase in July 1974. To pay for the raise in benefits, the bill would also provide for a broadening of the wage base for social security taxes.

I am also pleased that H.R. 11333 includes an automatic cost of living increase to begin in June 1975, should costs rise more than an annualized rate of 3 percent for the previous three or four calendar quarters.

For my own part, in my congressional district and as a member of the House Republican task force on aging. I have found that many older Americans encounter difficulty living in the comfort and dignity to which they are entitled after productive lives as wage earners and parents. The recent tremendous increases in the cost of living have made this even more apparent, and I believe if we in Congress had waited until next July to make a social security benefit increase effective, the Nation's senior citizens would have found it even harder to live on their small annuities.

After paying taxes all their lives, our older Americans have the right to be as independent and active as possible. Additional social security payments will assist them in this respect. The sad plight that many of them face must not be forgotten. This is why I am supporting this bill, and urge my colleagues to do likewise.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield 10 minutes to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I expect to vote in favor of this social security increase. I do so with reservations and with concern about the future of the social security system. I am not sure my vote is correct and in the best interests of all the people who depend increasingly on the social security system for financial protection during their retirement years. We are all concerned about the difficulties old people have in making ends meet as inflation reduces the effectiveness of their resources, and this concern has been translated into politically motivated legislative action repeatedly increasing social security benefits across the board. Any single vote to do this can be justified in a vacuum, but at some point in this repeated response to natural sympathy for the elderly some responsible agency of Government must put the process in a long time perspective which reflects the obligation we must meet to the soundness of the system. Frankly, nobody is worrying about where we are headed with social security. We would better not put off a careful review much longer if we are to face the next generation with as much sympathy as we are here showing to the last generation. Ninety million people now paying payroll taxes as an investment in their retirement income have a right to consideration, too.

I want to pose some questions, today. They are only questions, because I don't know the answers. If I knew the answers, perhaps I would not vote for this bill—or perhaps I would think it inadequate. Anyway, I want these answers before we go through this vaguely degrading exercise and vote an across the board increase again, probably sometime before the next election. I would think every person in this Chamber would feel the same way. Here are the questions I want answered, and the reasons I think they are appropriate:

First. How far can we expand our payroll tax wage base without seriously undercutting the voluntary private pension plan movement? This bill puts the wage base at $13,200 as of next January 1. It will go up again to finance cost of living escalations already built into the law, and because our tax rate is already so high, will doubtless be raised to finance future benefit increases also. There will be no "cushion" to finance future benefit increases under the existing tax structure because we changed the actuarial assumptions last year—without study—to assume the increasing wage level and annual inflation which gave us windfalls in the past. Ever higher wage bases put social security in

competition with the middle area pension and profitsharing funds with which industry rewards its midde group of employees. Maybe we do not want to encourage use of voluntary private pension in industry: certainly we could not discourage them more effectively than by expanding the social security wage base and resulting social security benefits into the same salary and retirement levels. Should we not continue to encourage pluralism in this field? Do we really want to put all our eggs in the social security basket?

Second. Are not some basic reforms increasingly needed to keep social security in the real economic world, rather than in the world of the past? To do equity without reducing anyone's benefits costs money, and in a closed system like social security money spent for an across-the-board increase cannot be used to make the system fairer. For instance, how long can we ignore the plight of the working wife? Forty-three percent of the work force is female—up sharply from the days when social security was organized—but unless an employed wife makes more money than her husband her contributions in payroll tax cannot enhance her pension in the normal situation, and from her point of view it is a lost payment, subsidizing higher pensions for somebody else.

Mrs. GRIFFITHS. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. Yes; I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. Mr. Chairman, I congratulate the gentleman. This is an extremely important point the gentleman is bringing out, and I do hope he continues on this point.

I would like to point out that with the base going to $13,200, we are going to have millions of couples in this country who are going to be paying in on a $25,000 income, neither one of whom, as a survivor, will ever draw as much as the widow of the man who paid in at $13,200.

Mr. Chairman, we need to reform social security.

Mr. CONABLE. Mr. Chairman, I would like to thank the gentlewoman for her contribution.

I must say that the gentlewoman's interest in this field is well known, and her reputation is very well deserved.

Mr. Chairman, because it's politically expedient to give an across-the-board increase as we are today, we turn our back on the working wife and ignore other possibilities for the equity which can result only from continuing reform.

Third. Who are the people at the bottom of the social security scale? Are they poor, or beneficiaries of some other system who moonlighted enough to get a minimum social security pension? At this point we do not know who they are, but they get more in relation to their contribution than anyone else, and apparently we have not cared enough to find out if this is socially justifiable. So we go on assuming they are the poorest of the poor, giving the whole system a bias in their direction on that assumption and to that degree eroding the wage-related assurances we have given those who year after year pay substantial sums into the system. To get more money to these assumed poor, we pump up the whole system, sapping its strength and stability.

In effect, what we are doing is shifting more and more of the burden of welfare onto the backs of the wage earners and off those whose taxes reflect unearned income. Our new SSI system, due to take effect January 1 and greatly reducing the allegedly demeaning impact of welfare for the aged, could be an alternative for the truly poor which would transfer the welfare functions of social security back to the general taxpayer. But that will take some doing, and in the meantime we talk about the poor to justify social security increases far beyond not only the cost-of-living increases but also actuarial, fiscal, and economic stability.

In addition to these basic questions, there are countless other areas which a basic study of the system must probe before we plunge on down the road which leads we know not where. How high a payroll burden is economically justifiable, and what is its relation to our chronically high unemployment rate? How sound is the system actuarially, and can we justify a higher imbalance now when our new assumptions of last year reduced the margin of safety in the figures? When the ripple effect of a social security increase has an economic impact far beyond other types of government spending—since the elderly have little incentive to save—should not we worry more amout economic timing and less about political timing? How big a trust fund should we have, and has trust fund manipulation possible under the unified budget system encouraged unsound fiscal policy? Is the earned income ceiling realistically related to the current benefit question needs to be answered. We cannot go on embarrassedly pretending they are not there and that we can afford continuing knee-jerk reaction to an opportunity to vote a benefit increase.

Having raised all these questions, and having voted against the 20-percent benefit increase last year, I owe my colleagues some explanation of why I intend to vote for this particular increase regardless of administration attitude, as yet unexpressed. There are several reasons: First, administration spokesmen appeared before my committee and indicated their satisfaction with proposals which did not differ markedly from this one, although they eased its fiscal impact in fiscal 1974. The Social Security Advisory Council has not been functioning, although we are assured it will be soon reconstituted, and so the administration is not in a position now to come forward with carefully prepared recommendations.

Next, I am satisfied that a substantial benefits increase is indicated at this time following the big runup of food prices this spring. Old people pay much more of their fixed income for food than do other age groups.

But lastly, I want to say that the procedure followed by the acting chairman of my committee has left me much less reason to protest than was true at the time of the 20-percent increase last year. While we did not have time to probe the basic questions I have suggested, Mr. ULLMAN did arrange for the committee to have several days of discussion of the proposal, which was not then attached to a veto-proof vehicle like the debt-ceiling increase. I want to express my gratitude for leadership which permitted us this degree of understanding. I am sure, also, that our conferees will not permit the other body to victimize us with the usual numbers-game type of bidding which has been possible with other procedures.

In summary, Mr. Chairman, I intend to vote for this bill, although I have no way of proving even to my own satisfaction that it is a proper vote in a long-term sense. It will surely be a wrong vote unless some responsible agency of the Congress follows with a careful study of where we go from here. I call upon the majority leadership of this House to insure that such a study takes place.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. VANIK).

Mr. VANIK. Mr. Chairman, I would like to take this time to ask our distinguished colleague from Oregon, the acting chairman of the Committee on Ways and Means, as to the problem which developed when some of the members of the committee—and I was among them—endeavored to bring about a program which would make the social security benefit increase available as early as January 1. Will the gentleman from Oregon, the distinguished acting chairman of the Ways and Means Committee, tell the committee about the leadtime that is now required by the Social Security Administration in order to bring about a payout of benefits commensurate with the cost-of-living increases?

Mr. ULLMAN. Will the gentleman yield?

Mr. VANIK. I yield to the gentleman.

Mr. ULLMAN. I would respond by saying that I was shocked, and I think most of the members of the committee were shocked, when the administration told us there would be a minimum time of 5 months to implement a refined benefit increase. This compares with the previous 3-month timelag that existed a year or a year and a half ago.

I am putting in the RECORD an explanation from the Social Security Administration giving us their rationale and their reasons as to why it takes this much additional time.

However, they insisted on their position, saying that there was no way they could implement it in less than a 5-month time frame.

Mr. VANIK. I thank our distinguished chairman.

I want to say, Mr. Chairman, this disclosure about the leadtime required to implement the social security benefit came after we had had several days of hearings and discussions on this problem. It came as a shock to me as it did to our distinguished acting chairman and to other members of the committee.

I felt that the information had some relationship to the administration's desire, perhaps, to hold back on the social security increase throughout fiscal year 1974. Under the circumstances in which discussions began to take place in the Senate and in this body on the social security increase, it was certainly incumbent upon the Social Security Administration to advise the Committee on Ways and Means and the Finance Committee of the Senate that a leadtime of perhaps 5 or 6 months would be required in order to bring about the increased benefit payouts.

When I discussed the problem of the leadtime required by the Social Security Administration to pay higher benefits with one of my constituents, Mr. Thomas C. Westropp, president of the Women's Federal Savings & Loan Association of Cleveland, he wrote me as follows:

Recent statements carried by the news media have indicated that the Social Security Administration would be unable to comply with any forthcoming Congressional mandate to increase benefits until next May or June, because of necessary computer reprograming. In view of the fact that these benefits are sorely needed by a great number of our citizens it would seem that some emergency measures should be taken to overcome the mechanical difficulties.

One such approach that seems feasible to us would be the issuance of a schedule to all financial institutions authorizing them to pay incremental sums above the face amount of the checks by making simple monetary adjustments. For example: If the recipient receives a check for $100 and the value of the new benefits is $107, the financial institutions can be authorized temporarily to pay $107 and so indicate the disbursed amount above the endorsement on the check. Reimbursement of the sum to the paying agency would be accomplished through the clearinghouse.

This authority for an interim of time only would allow Congress and the Social Security Administration to respond immediately to the critical needs of people benefiting from these payments.

This very meritorious suggestion indicates a method by which social security benefit increases might be immediately paid out.

I want to say that while I favor a much earlier benefit payout than is possible under this legislation, I feel the committee responded as best it could to the problem of adjusting social security payments to the higher benefit levels.

I am pleased to support this legislation. I regret, however, Mr. Chairman, that we have failed to do something that ought to have been done about the social security retirement income test, that part of the income which is exempt. I think that the case is well made today for an exempt income retirement test of no less than $3,000. I think people who are on social security with no other form of income, without any other form of support, are in a rather distressing situation, and need to supplement their social security payments by some outside income. As I understand it, the social security actuaries estimate that under the present system of automatic changes the annual income exempt under the retirement test will be $2,400 for 1974, $2,520 for 1975, $2,640 for 1976, $2,880 for 1977, and $2,880 for 1978. So what we see in this projection is an even wider gap between the amount of social security received by those in the lower echelons and the rising cost of living. I think that an adjustment of the retirement test must be included in legislation next year.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Chairman, I yield 1 additional minute to the gentleman from Ohio.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. VANIK. I am happy to yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I thank the gentleman from Ohio for yielding. I am just curious to know whether there was any testimony offered as to why those lower levels of income earnings had to be kept at this level? Is there some rationale for this?

Mr. VANIK. I would yield to my chairman, Mr. ULLMAN, for a reply to that inquiry. We had some testimony from the actuaries.

Mr. ULLMAN. Mr. Chairman, if the gentleman would yield, this is one of the highest cost items in the system. And we are, as the gentleman from New York knows, trying to improve the base for the social security system, and therefore it was felt at this time we could not make that additional benefit because of the cost factor.

Mr. PEYSER. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. ULLMAN. Mr. Chairman, I yield such time as she may consume to the gentlewoman from New York (Ms. ABZUG).

Ms. ABZUG. Mr. Chairman, I support this bill, and am opposed to the amendment offered by my colleague, the gentlewoman from Michigan, because it would make it impossible for poor old people, the disabled and the blind in this country to live within this income.

Under Public Law 93–66 and sections 4(a) and (b) of this bill all SSI recipients in the 20 States with current aid to the aged, the blind, and the disabled payments below the $130 level per month for individuals and $195 per month for couples will receive increases equal to the full $16 and $29 per month, respectively, provided in these amendments. These increases will be entirely at Federal expense.

Section 4(c), of this bill, allows those States that are supplementing the Federal minimum to pass on to recipients, at Federal expense, 62.5 percent of these increases.

The elimination of 4(c) would provide not $1 of increased benefits to SSI recipients in New York State as well as recipients in California, Hawaii, Massachusetts, Michigan, Nevada, New Jersey, Pennsylvania, Wisconsin, and possibly Rhode Island. Instead of receiving a cost-of-living increase, New York State's SSI recipients remain frozen at 1972 payment levels unless the State accepts the entire cost of increased supplementation.

When Public Law 92–603 was passed we wrote into it protection for the State's against the cost of supplementing the increased Federal caseload by limiting a State's fiscal liability for supplementation to actual calendar 1972 State and local assistance outlays for the replaced categorical programs if supplementation is federally administered and State benefits do not exceed average actual assistance and food stamp benefits in the State in January 1972. This is the "adjusted payment level."

Because of the arithmetic of State supplementation State and local governments in New York would not save $1 if we pass sections 4(a) and (b) without 4(c).

In New York there will be 271,000 people starting to receive SSI benefits in January. These are people who are trying to make ends meet in a period of continually escalating cost. In the last 3 months alone the cost of living has increased at an annual rate of 10.2 percent and the food component of the cost of living has gone up an astronomical 28.8 percent in that period. We are not talking about giving people thousands of dollars but of allowing people an extra $10 per month. It is simple justice.

I urge the adoption of this bill as reported by committee.

Mr. ROSENTHAL. Mr. Chairman, today we are voting on legislation for a two-step 11-percent increase in social security benefits to be paid next spring and summer.

Frankly, I must admit I am disappointed with the delay. This increase is supposed to meet the rise in the cost of living for the year ending June 1973, but payment is being delayed nearly a year.

Social security recipients should not have to wait until next year to meet last year's inflation. Especially in light of the soaring increase in the cost of living and the worst inflation in our history. America's 21 million elderly citizens need our help now, not a year from now.

More than 2 months ago, I introduced H.R. 10236 with nearly 110 cosponsors. My bill would have made next year's social security increase effective immediately. The Senate promptly enacted this measure in early September.

I have received hundreds of calls, visits, and letters from my district and from around the country in support of this legislation. It is abundantly clear to me that most Americans are in a desperate plight because of drastically higher prices for food and other essential items. Shoppers have had their incomes practically drained because of rapidly accelerating rises in the cost of living.

While the administration has been lax in its restrictions on the big firms which are showing tremendous profits, its misguided economic policies have forced the elderly into a precarious position which has become intolerable.

The Agriculture Department predicts food prices alone will rise at least 20 percent this year and wholesale prices already have reached their highest level in history. Those hardest hit by such developments are the poor and the elderly, persons who traditionally live on small.

fixed incomes and spend 30 percent of their disposable income on food.

There is nothing inflationary about giving these persons a few extra dollars a month. The average retired individual gets $162 a month; his benefits will go to $173 in March and $181 in June. The aged couple now receiving $277 a month will get $296 after March and $310 a month starting in June.

Nearly 3 out of every 4 Americans over the age of 65 have annual incomes below $3,000, including 2.5 million persons with no income at all.

Mr. Chairman, we must not stop here. This 11-percent increase in benefits will be helpful, but our elderly citizens on social security need much more. That is why I have introduced H.R. 6958, a bill to raise cash benefits by 35 percent and to make other needed improvements in the social security program.

Features of this bill include:

First, payment of benefits to married couples will be on their combined earnings record, thus ending discrimination against the working wife;

Second, extension of social security coverage, including medicare, to Federal, State, and local employees, at their option, including postal workers;

Third, removal of the limitation on outside earnings; social security is insurance which the worker paid for, and he should not be denied the benefits because he has provided for other income in his old age;

Fourth, improvement and expansion of medicare coverage;

Fifth, lower the age of eligibility for men and women to 60.

The administration wants the elderly to pay an additional $1.9 million in their medicare costs in an effort to establish a cost awareness on the part of the medical care consumer. This is absurd. Cost-consciousness is not a trait we need to teach our older citizens. It is a trait we should learn from them. Yet, the administration is telling people who must count out pennies for a newspaper or nickels for a quart of milk that they must hold the line on costs. I wish the President would show such cost-consciousness for the multi-billion-dollar cost overruns in the Pentagon.

My bill would not increase the burden on medicare recipients as the President proposes, but reduce it by:

First, eliminating the coinsurance payment requirement for supplemental part B coverage for persons with a gross annual income below $4,800;

Second, providing home-care prescription drugs under supplemental coverage;

Third, reducing to 60 the age of entitlement to medicare benefits;

Fourth, offering free annual physical examinations for the elderly;

Fifth, eliminating the 100-day limit on post-hospital extended care services;

Sixth, extending coverage to all disabled persons, regardless of age.

On the average, an elderly person pays $791 a year for medical bills, and the price keeps going up. Hospital and doctor costs are rising rapidly, well ahead of the overall cost of living.

My bill provides optional free annual physical examinations for the elderly in order to encourage preventive care rather than rely on crisis treatment. Not only will this measure contribute to a healthier population but it also will save more money in the long run than would the administration's shortsighted method of creating a cost-consciousness by raising the price of coverage.

Not only should we promote inhospital and posthospital care for the aged, but we must also resolve to ease the financial burdens of necessary prescription costs. The elderly spend about three times more per capita on prescription drugs than the rest of the population. In 1970, that came to $50.94, compared to $16.29 for persons under 65.

My bill would extend medicare coverage to include out-of-hospital drugs. This is something I have long advocated and which has been endorsed by the White House Conference on Aging, the President's own task force on aging, the 1971 Social Security Advisory Council and the Department of Health, Education, and Welfare's task force on prescription drugs.

This specific proposal, I believe, will have a significant side benefit. Many times the elderly must be admitted to hospitals in order to qualify for medicare coverage of drug purchases that could otherwise be prescribed on an outpatient basis. This proposal will not only eliminate this unfortunate use of much needed hospital space, but will avoid the potentially tragic psychological impact that a hospital stay can have on older people. This is a price that the elderly should no longer be expected to pay.

Every part of this bill affords effective, tangible and solvent ways of correcting the question it deals with. We all face a common aging problem. We must provide and plan for a retirement period of indeterminate length and uncertain needs. In 50 years, 15 percent of all Americans will be over 65, a third of these, 15 million, will be over 75. My bill will help eliminate many of the spiraling problems that have plagued our country's aged. It must be kept in mind that social security is not charity, but insurance bought and paid for by American workers.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I agree with my colleague that it would be well worth our while to devote a substantial amount of time to a complete overhaul of the social security system. The fact of the matter is we have taken some new steps which are going to make that easier to do.

For years, many poor people in this country have been living only on their social security pensions. In our humane effort to give them some slight increase in their living standard, we kept increasing their social security minimum. This was done to help those persons who lived in States where there was inadequate supplementation for the aged, the blind, and the disabled.

On January 1, 1974, we begin a Federal program providing minimum benefits for what we called the adult category, paving the way to remove the former social security minimum and making social security benefits reflective of the amount paid in by a worker. I hope we do that. It is the only way we will be able to adjust the maximum social security benefits upward so that they will reflect what an employee has been paying over the years.

Regarding this proposal, there was some discussion whether or not it is actuarially sound. I suggest to the Members that it is. We recognize that the social security tax rate is a great imposition upon low-income workers. It is a real cost of 11 percent on the first dollar anybody earns. It is paid half by the employer, but it is money that probably would go to the employee.

In this proposal, we avoided a rate increase by increasing the wage base and still keeping the program actuarially sound. That means for anyone who earns $10,800 or less, there will be no social security tax increase. Those who will feel the bite are the ones earning from $10,800 to $13,200. Those earning substantially over $13,200 probably will not miss the dollars quite as much as those who are right at that level. It seemed to the committee that the increase in the wage base is the only reasonable way to finance a desperately needed benefit increase.

The administration made great objections to any increase that would be paid out in this fiscal year—for one simple reason: The President wants to borrow money from the trust fund to finance his general budget. The fewer benefits we pay out this year, the more he can borrow from the trust fund. This increase means that there will be about $1.1 billion less for him to borrow from the Social Security Trust Fund. He will have to go out and borrow the billion-plus someplace else.

Briefly, about the Griffiths amendment: when the committee looked at what we ought to try to do now for the aged, blind, and disabled—those who are really the poorest of all the poor people in this Nation, and when we looked at the terribly high cost of living, especially the cost of groceries, which is by far the biggest item in their budget, we said they just have to get more money and we have to get it to them as quickly as possible.

At the time we enacted the SSI program for the aged, blind, and disabled, we set the Federal minimum payment to go into effect January 1, 1974 at $130 a month for a single person and $195 for a couple, and we thought that was a reasonable floor. For those States that were paying the aged, blind, and disabled more than the Federal minimum—and they are primarily the 10 larger States where most of these people live—we agreed to hold the States harmless from any increase in State costs if they retained their existing benefit levels.

All we are saying in the legislation under discussion today is that the $130 is too low; that we are going to move it up to $140; and for those States that supplement, if they will still supplement the total dollars they spent in 1972—we will let them pass on the additional $10 to their aged, blind, and disabled. It is the

only way we can get the $10 increase to these very needy people.

It is not a matter of States being rich or poor—or of States being willing or unwilling to meet that need. The fact is that it is the only way we can get the extra $10 to these aged, blind, and disabled in January 1974.

There are two competitors in this matter: On the one hand, the Federal Treasury; on the other hand, the poorest of the aged, blind, and disabled people of this Nation. What we are talking about on the Federal Treasury side is $175 million. On the other side, we are talking about 33 cents a day for an aged, or blind, or disabled person, or 50 cents a day for a couple.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ULLMAN. Mr. Chairman, I yield 3 additional minutes to the gentleman from California.

Mr. CORMAN. I thank the gentleman for yielding time.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I thank the gentleman for yielding.

Mr. Chairman, I want to associate myself with the remarks of my distinguished colleague, the gentleman from California. He has really zeroed in on the problem here. What we are dealing with here is the blind, the disabled, and the elderly, the very poorest of the poor, and it seems to me that this great and affluent Nation of ours should not be zeroing in on economy at the expense of these poor and unfortunate people who are faced with the spiraling cost, the high cost of living, the escalation of prices, food prices, and now fuel prices, and all the dreaded costs that are going to be heaped upon them come January 1.

I certainly wish to be associated with my colleague, the gentleman from California, and I commend him for his statement.

Mr. CORMAN. I thank the gentleman from Massachusetts.

I would like to make two points. First, let us look at what the hold harmless means as far as California is concerned. It applies identically to all ten of the States involved.

If we do not retain the committee's position, the Federal Government will give $10 more to each single aged, blind or disabled person in 40 States—and $15 more to a couple—but not an additional penny to the aged, blind, or disabled in the 10 States where most of these people live.

California is spending its own money in trying to give a reasonable living standard to these persons in the State, but what does that standard mean for them? For a single person living alone now, it means $211 a month, plus $10 worth of food stamps. I cannot feed my family on $221 a month, and I doubt that any Member here can. There is rent to pay, and utilities, and clothing to buy, if there is anything left for clothing. What we are really talking about here is rationing—out of $221 a month—for food, for clothing, for shelter, for other essentials to keep body and soul together. What I am trying to get us to do is merely to increase that person's food rationing 33 cents a day.

In New York, the average payment to a single aged, blind, or disabled person presently is $207, including food stamps. In Michigan it is $200; In Pennsylvania $146 plus a bit for food stamps; and in Massachusetts $207. In these States, as well as in the other affected States, if we do not vote down the Griffiths amendment, those of the aged, blind, and disabled who also get small social security checks, are going to be hearing about an 11-percent social security increase and about a $10 increase in the basic Federal SSI payment when they are transferred into the new Federal program—but they will end up receiving the same amount of dollars as if we had not increased social security or SSI. And these are the persons hurt most by increasing costs of food, rent—and now, even fuel oil to heat their houses. These are the persons also hurt most by the devaluations of the dollar the Nation has experienced over the past couple of years. And to neither situation—inflation nor devaluation—have they contributed; they are only the victims.

The question is not the Federal Government versus the rich States. The question is the Federal Treasury versus the poorest of the aged, blind, and disabled people of this country. There is no Federal expenditure we will make in the 93d Congress that will be more meaningful than to assure these people that they will also get a pitifully small $10 increase to buy food.

I urge the Members to support the committee's recommendation and to vote down the Griffiths amendment when it comes up for a vote.

Mr. ULLMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, while I applaud the increase in benefits in this bill I have some questions about the financing aspects of it.

Mr. Chairman, I rise in support of this bill's provision for a two-step, 11-percent cost-of-living increase in social security benefits. Last year the Congress committed itself to maintaining the dollar value of a social security pension by providing for automatic cost-of-living increases in benefits, effective in January 1975. It is now painfully clear that the interim 5.9-percent cost-of-living increase, scheduled to take effect next June as an advance payment toward the first automatic increase, will be wholly inadequate.

While I applaud the provision of an 11-percent increase in benefits, I have some questions about other provisions of the bill affecting the financing of the social security system and about the actuarial assumptions on which those changes are based.

Under the bill, the tax rate for hospital insurance—now a flat 1 percent—would be reduced in 1974 to 0.90 percent and stay there through 1977. In 1978, the medicare rate would rise to 1.10 percent—instead of the 1.25 percent provided under present law—and stay there through 1980.

By virtue of this change, the health insurance trust fund would forgo $1 billion in income in calendar 1974. For the fiscal years 1974 through 1979, according to the committee report, the health insurance trust fund will receive $9.8 billion less income than it is expected to receive under present law. Over the course of those 6 fiscal years, nearly $10 billion will in effect have been transferred out of the health insurance trust fund and into the old-age and survivors and disability insurance trust funds.

It is hard to get used to this idea, for two reasons. First is that the health insurance trust fund used to be ailing. It is the one that was underfinanced and headed for bankruptcy. Now, suddenly, it is in the pink of health, thanks to a combination of factors, including an increase in the health insurance contribution rate this year from 0.60 percent to an even 1 percent and the restraints that the economic stabilization program have imposed on medicare costs. In the short run, in fact, the health insurance trust fund is now regarded as overfinanced, since its estimated reserves at the end of 1977 would amount to more than 100 percent of the following year's estimated outgo.

The other reason is that I have introduced legislation—now cosponsored by 111 other Members of this body—to provide an outpatient prescription drug benefit under medicare. This would be a much needed maintenance drug program for the elderly who suffer from certain specified chronic illnesses. The official cost estimate for this program, made last year for the Senate Finance Committee, was $740 million for the year beginning July 1, 1973.

In previous year, when I was proposing a comprehensive outpatient prescription drug program, the principal objection I heard was that it would be too expensive. Then, when the proposal was scaled down and tailored to the elderly who are most in need, I was told that there was not enough money in the trust fund.

Suddenly, when it appears that the health insurance trust fund will have more than enough money to finance a maintenance drug benefit, that income is diverted for OASDI purposes. As far as I am able to determine, no one has given any thought to the possibility of keeping that money in the fund to finance a maintenance drug program. Ironically, I received a letter only yesterday from a constituent whose husband, 63, suffers from Parkinson's disease. They spend $120 a month for prescription drugs.

What I want to question is the committee's contention that the old-age, survivors, and disability insurance program now shows a serious actuarial imbalance that must be corrected by increasing the income of the OASDI trust funds. Here is the chronology of progressively more bleak actuarial projections:

July 16: The 1973 annual report of the trustees of the OASDI trust funds says current estimates show a long-range actuarial imbalance of minus 0.32 percent

of taxable payroll, a deficit of about 3 percent of the long-range cost of the program.

Next, according to the gentleman from Texas (Mr. ARCHER), it was increased to minus 0.42 percent when we enacted the 5.9 percent benefit increase to take effect next June.

October 30: Again according to Mr. ARCHER, a pamphlet prepared for the committee said the OASDI program was out of balance by minus 0.68 percent. A few days later, he notes, committee members were given another estimate indicating it was out of balance by minus 0.76 percent of payroll.

I know that we all want the trust funds to be actuarially sound, given the new dynamic actuarial methodology we are using. I also note this statement in the report of the trust funds' trustees:

Variations in the actuarial balance (in either direction) arising from short-term fluctuations in consumer prices and average covered earnings are inherent in the actuarial methodology now employed. Over the 75-year period of the estimates short-term fluctuations could be expected to be in both directions and somewhat offsetting, and relatively small deviations from exact actuarial balance should not call for changes in the contribution schedule.

Mr. Chairman, I do not want us to jeopardize the future health of the Social Security System. But I would be more comfortable if I knew that the financing changes proposed by this bill are in accord with this bit of advice from the trustees of the trust funds, and that we are not unnecessarily diverting money from the health insurance trust fund that could and—in my view, anyway—should be used to finance an outpatient drug program.

Mr. ULLMAN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. BURTON).

Mr. BURTON. Mr. Chairman, I would hope that the proposal advanced by our distinguished colleague, the gentlewoman from Michigan (Mrs. GRIFFITHS), will be rejected. I do that for the following reasons:

As we all know, in January, a few months from now, we are moving into a new program providing a federally established minimum payment to the aged and the blind and the crippled of our country, and that program also carries with it a very thoughtful and much improved financing arrangement that ultimately redounds to the benefit of the Federal Treasury.

Let us contrast the law today with the law as it will be in effect in January. As of today all of the States receive at least 50 percent Federal matching for welfare payments made to aged and blind and disabled persons, and a number of the States receive some larger percentage, up to approximately 83 percent.

After the new law takes effect, a majority of the States will receive an increase, in effect, of their Federal matching funds, that is currently from 50 percent to 83 percent, to 100 percent Federal matching. But for some States, some 10 or more who today receive 50 percent Federal matching, the effective matching for these States is reduced as a percentage from 50 percent to perhaps one-third or perhaps 25 percent.

Now although it is very difficult without the utilization of visual aids, permit me to describe I hope in simple and understandable terms its application in at least the State of California.

As of today California's average grant is $120 a month or so in the aged program. California today receives 50 percent matching or $60 a month on the average for each recipient receiving aged aid.

In January, taking the new financing arrangement and applying it to that same older person whose benefits must be maintained because we have passed a law requiring their benefits not to be reduced, the following is the Federal commitment to California:

The Federal Government is obligated as of now to provide an assured level of income of $130; but all outside income, and that is mainly social security, is used to reduce the Federal commitment.

Under this bill the proposal is that the $130 assurance per month is to be raised to $140, so let us stay with that latter figure for purposes of this illustration. After the social security increases in the bill, the average income for an aged recipient in our State will be, approximately $100 a month of outside income, so under the new financing arrangement in California that aged person for whom we shall receive $60 Federal contribution in December, we shall receive $140, less the $100 on the average, or an average of $40 for that same recipient. Mrs. GRIFFITHS has pointed out—and she is correct—that this does not take into account the $20 per month disregard which is available to some 75 to 80 percent of our adult recipients.

(At the request of Mr. ULLMAN and by unanimous consent, Mr. BURTON was allowed to proceed for an additional 3 minutes.)

Mr. BURTON. Mr. Chairman, so where, as in December, we shall have really on the average a $60 Federal contribution, we shall after the effective date of the increases receive on the average a $40 contribution. Obviously, that is a result that could not pass political muster.

So the distinguished chairman of the Committee on Ways and Means constructed the cheapest and most efficient method of seeing that States like California were not discriminated against by having their effective matching reduced by one-third—which I have now restated for the fourth time and stand on—by providing that there be a hold-harmless provision. It is the operation of the hold-harmless provision that results in the restoration effectively to the higher cost-of-living or higher grant States of, roughly, the 50 percent.

This proposal suggests increasing the Federal commitment by $10—$10 I might note will come virtually entirely out of Federal funds. Under the wise financing, constructed by Chairman MILLS, all of the offsetting increased social security income will be used to reduce the Federal General Fund obligation to meet this Federal commitment of $140 a month.

The increase of $10 to all in the lowest grant States is entirely Federal money and all of us in the higher cost-of-living States applaud—do not decry—that the person in the lower income States receives this increase as a matter of full Federal financing. But do not deny to us the same option to receive and pass through to our elderly poor the equivalent $10 increase, because we have given up, in the process of the new financing, the 50 percent savings that otherwise would have redounded to the higher grant States because of the social security increase, by acceding to Chairman MILLS' thoughtful and wise request that all that increased income will be used to offset the Federal cost to pay the Federal minimum.

Mrs. GRIFFITHS. Mr. Chairman, will the gentleman yield?

Mr. BURTON. I yield to the gentlewoman from Michigan.

Mrs. GRIFFITHS. Mr. Chairman, the gentleman continues to invoke the name of the Chairman. Chairman MILLS was present when we guaranteed that the gentleman's State and mine would not have to pay more because of SSI, which would go into effect next January 1, than they paid in 1972. That is what is, in effect. It has not been repealed.

The only thing your hold harmless does now is protect you and me from the increases way above that $210 that are now being voted. Mr. MILLS was not present when this was even talked about in the committee, so he had nothing to do with it.

But in addition, while the gentleman keeps talking about this, he fails to note that there are two social security raises going into effect next year. No State has ever held harmless an SSI recipient against a social security raise.

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. ULLMAN. Mr. Chairman, I yield 3 additional minutes to the gentleman from California (Mr. BURTON).

Mrs. GRIFFITHS. And you do not intend to do that either. There is nothing in here that would hold you harmless. There is nothing in here that will hold you harmless.

Mr. BURTON. Mr. Chairman, I decline to yield further for the purposes of this point: The overwhelming majority of States have disregarded, for their adult recipients, social security increases, to the extent permitted by the Federal Social Security Act, and that is a fact.

Mrs. GRIFFITHS. No, I talked with every State. They do not protect against social security, do not protect against the veterans increases. What the gentleman is asking here is for a one-shot increase, for SSI only. He is not saving harmless against the social security increases or the second SSI increase.

I am saying to the gentleman again, he is not protecting the poorest people. The poorest people are the people who are getting social security minimums or small amounts and who, because of some small asset, are not eligible for any SSI. Those are the poorest people.

Mr. BURTON. Mr. Chairman, I decline to yield any further because I have so little time.

Mrs. GRIFFITHS. I know it hurts.

Mr. BURTON. Mr. Chairman, I fully agree with the gentlewoman that there are limitations on assets that are irrelevant, and I would also like to have the

record be made clear, if I have left any inference to the contrary, I do not assume that the chairman of the Ways and Means Committee adopts any portion of what I am saying.

What I do mean to state is that there was a radical rearrangement, a wise one, of how these programs are to be financed; and I do assert further that in the Federal budget approved by the House Appropriations Committee, the administration has, for the first 6 months of this fiscal year, overstated—by from 6 to 7½ percent the costs of the current adult welfare program. HEW estimated an average caseload of 3.4 million aged, blind, and disabled recipients, when, in fact, the average caseload for July–December 1973 is going to be about 3.150 million or 250,000 caseload months less than the projected 3.4 million caseload average for that 6-month period.

For the last 6 months of this fiscal year, the administration estimated that there will be an additional 3 million recipients, on the average for the last 6 months of this fiscal year, due to the new social security insurance program.

I will stand here right now and say that I will eat cotton if there is any more than a third of that, on the average, increase for the balance of this fiscal year. Therefore, the committee bill including the hold-harmless language, is within the parameters of the administration's sought budget amount and this general revenue amount will not be exceeded even with the enactment of the recommendation of the Ways and Means Committee.

Mr. CORMAN. Mr. Chairman, will the gentleman yield?

Mr. BURTON. I yield to the gentleman from California.

Mr. CORMAN. Mr. Chairman, I do want to point out concerning the original hold-harmless, that in the State of California, it would have to grandfather in certain recipients, and that cost the State of California $22 million, which it was perfectly willing to pay and which was mandated by this House in the summer of this year. Additionally and voluntarily, the State of California has added $56 million to their cost-of-living requirements to try to take care of them, so they have moved that State supplement from $381 million, which is the Federal requirement, to $459 million. If we do not have the hold-harmless, they can get——

The CHAIRMAN. The time of the gentleman from California has again expired.

Mr. ULLMAN. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. BURTON. Mr. Chairman, I yield further to the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Unless the hold-harmless provision stays in, only the States which did not supplement and paid the minimum will get the $10. States with supplementing will not get it because the Federal Government will give it per capita, but let them hold harmless.

And so the competition is truly between the Federal budget and the budget of the very poor. It seems that what we are worried about is really who are the poorest of the poor? The test of the situation for everybody is, if one has no assets and no income, one gets a minimum, throughout this entire Nation, of $130 and, as proposed now, $140. In the State of California one gets $211 because the State pays the difference.

Mr. BURTON. Mr. Chairman, I fully agree with my distinguished colleague, Mr. CORMAN. If I may conclude in the very few seconds I have left, if we want to look at this matter in terms of equity among the several States, simply stated, it is this:

A great number of us willingly supported a change in the financing, even though it resulted in an increase percentagewise to the majority of the States in this country from 17 to 50 percent of their previous matching.

We did that willingly. All we are asking is that they do not change the ground rules on us, so that we may get our piece of the action for our poor elderly, blind, and disabled.

Mr. ULLMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Michigan (Mrs. GRIFFITHS).

Mrs. GRIFFITHS. Mr. Chairman, what this does, in fact, is to say that California and nine other States—and my State is one of them—will have the Federal Government come in and help them raise their payments way above the $210 for a couple, over and above what the other States have. But if you are in one of the other States, such as Ohio, Indiana, Michigan, Illinois, Connecticut, Maine, Vermont, Florida, or Texas, any of those States, and you raise it one cent above $210, you will pay every penny of it yourself, every penny, and you will also help us raise ours above $394 or whatever our individual payment is. Now, I would like to have someone tell me where that is equitable.

If we have that kind of money to spend, let us spend it on a Federal priority, not helping the rich get richer.

Mr. ULLMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. MAHON).

BUDGET IMPACT OF SOCIAL SECURITY INCREASE

Mr. MAHON. Mr. Chairman, the record of the proceedings of today will contain much helpful information. This debate has been of great interest, I think, to the Congress and will be of interest to the country generally. The record, which contains this discussion, should also contain certain overall information in regard to the Federal budget.

As has been pointed out several times in the debate, this bill will increase the national debt this year by $1.1 billion and will increase the deficit by $1.1 billion. That is not to say that the bill should not pass. I intend to vote for it.

However, I believe we should also bear in mind that this will add an additional billion dollars above the January spending budget of $268.7 billion. The House earlier in the year approved an expenditure ceiling of about $267 billion. Including this social security bill, the Congress will probably be at the end of the session, about $5 billion over the January budget in expenditures.

The President revised his budget on October 18 from $268.7 billion up to $270 billion. The President having approved congressional actions above the budget at that time in the sum of $2.4 billion embraced those increases in his new budget estimate. Having signed these bills into law, he has taken them into account in revising his expenditure budget up from $268.7 billion to $270 billion.

In addition, the President has submitted the budget amendment for assistance to Israel, which brings the most recent administration spending estimate to $270.6 billion.

In actions subsequent to October 18, including the $1.1 billion increase being considered today, the Congress will add another $2.6 billion in spending. In percentage terms this amounts to less than 1 percent of the $270.6 billion estimate.

Of course, it is true that the fiscal picture has improved dramatically not as a result of reduced spending or reduced appropriations but as a result of a $14 billion unanticipated increase in revenues which has occurred since the January budget was submitted.

I would like to say again, as I have said many times on the floor, that the budget-busting problem of this Congress does not lie with appropriation bills from the Committee on Appropriations. It seems clear now that the appropriation bills in this session of Congress will be in total at the level or below that of the President's budget. Our difficulty generally in trying to hold Federal spending within the budget comes from backdoor spending or spending mandated by nonappropriation bills.

I thought it was appropriate to bring this up under the circumstances, and I shall ask unanimous consent at a later time to revise and extend my remarks on this matter. At another place in the body of the RECORD of today, I shall present a fuller discussion of fiscal matters.

Mr. ULLMAN. Mr. Chairman, I yield to the gentleman from Texas (Mr. MILFORD) such time as he may use.

Mr. MILFORD. Mr. Chairman, I want to join my colleagues who are supporting this drastically needed updating of social security benefits.

It is imperative that the retired people in our Nation who have devoted their lives to productivity and citizenship responsibility be assisted at this time.

I know of no other group of people who have felt the crunch of our galloping inflation more than these folks. Their income is fixed. And until this bill, it has taken an act of Congress to increase their income—social security payments.

I find this bill to be one of the most promising pieces of legislation coming out of this law-making body, because it will provide for increases based upon cost-of-living indexes computed annually.

Up to this time, we have been in the position of asking our retired and disabled persons to shrink their stomachs and to do without needed medical prescriptions while we debate their needs. Until now, there has been no way to increase their income in marching rhythm with rising prices and diminished dollar purchase power.

If we act now on this bill, we can put

7 percent more money—or an average of $11 a month for an individual—in their hands with the April social security checks. And, another increase—up to 11 percent, or a total average increase of $19 for an individual—by the July checks.

I would like to impress upon my colleagues that for 20, 30, or 40 years or more, these individuals—whose income we are now legislating—have poured money into our economy and into this fund over which we hold the purse strings.

It is time we let the economic situation and demands release this hold in the prudent and sound manner set forth in H.R. 11333.

Mr. ULLMAN's bill addresses itself to the immediacy of the crisis of senior citizens by calling for their receipt of the increase in April.

I would like to call attention to some Department of Labor budget statistics for a retired couple. The national average cost for people in the lowest budget is $3,442 a year. This is $118 a year more than the average couple is receiving in social security benefits. But let me make you aware of this fact: these are 1972 budget figures. If we add in the 4.7 cost-of-living increase, over the first 7 months of this year, this same couple will need $3,604 to make it.

Our bill would almost bridge this gap in April and would take care of the increase by July if—if the costs of surviving, such as food, shelter, medicine and transportation, do not rise higher than September figures.

And since that is the impossible dream, I urge the immediate enactment of H.R. 11333, so that social security income can be computed comparably with cost hikes.

I feel strongly about this issue, and as most of you know I have strongly advocated cautious and prudent budget spending. However, this bill will enable us to help the grandparents of this Nation, yet remain prudent and cautious by paying its way by raising the social security taxing maximum wage base to $13,200, and retaining the same 5.85 percent tax rate until 1977.

Because this is a compassionate bill, because it will alleviate a pressing crisis for retired people, and because it is economically sound, I would urge my colleagues to vote yes. Thank you.

Mr. BROYHILL of Virginia. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. COLLIER).

Mr. COLLIER. Mr. Chairman, in the light of what the distinguished chairman of the Committee on Appropriations just said, I believe it is in order to remind this House that in June of this year, 6 months after we enacted legislation to provide a 20-percent increase in social security benefits, we did, in fact, enact legislation for an additional increase. It included the cost-of-living escalator plus the raise in benefits to have become effective on July 1. We did this because in the interests of being fiscally responsible we thought at that time—and the House, I repeat, did approve it—that we ought to wait until July of 1974. This would have provided a period in the interim 6 months for us to accumulate through an increase in the taxable base the trust fund income to accommodate the additional burden of the July 1 increase.

However, because, as is so often the case, the second shot increase was hung on as a rider to a totally unrelated piece of legislation, the debt ceiling bill, we were then forced into what you might call an emergency situation to foreclose an even further problem facing us to move this legislation.

So I pass this on to you because I think the action we took last June, which we have now rescinded only 4 months later, represented a far more responsible approach than is the course which we are now taking.

Mr. DENNIS. Will the gentleman yield?

Mr. COLLIER. I yield to the gentleman.

Mr. DENNIS. I cannot help but wonder, in view of what the gentleman from Illinois says and what the distinguished chairman of the Committee on Appropriations had to say, why this distinguished committee that brought this bill in did not bring it in under a rule which would have permitted an amendment which would have perhaps gone back along the road we were trying to go last June.

Mr. COLLIER. I had no voice in the rule that was granted.

Mr. ULLMAN. Mr. Chairman, I yield myself 1 minute.

I want the record to be clear that it is only because we have a unified budget concept that this has an impact. The reason should be absolutely clear, that the trust funds are paying a substantial surplus into the unified budget.

There is in fact a $15 billion or more Federal funding deficit, but in the unified budget that is offset by the surpluses from the various Government trust funds.

Without these surpluses from the trust funds, including the social security trust funds, the budget would show a deficit of the same amount. Omitting trust fund operations is the concept of the administrative budget, which was abandoned a few years ago when the present unified budget was adopted. Some people believe that the unified budget is more a bookkeeping operation than a true measure of Federal fiscal requirements. For all intents and purposes, the administrative budget is the portion of the budget which is subject to the debt ceiling. The operations of the trust funds, on the other hand, do not affect the debt ceiling. I think it is important that the trust funds be allowed to operate consistent with the purposes of the programs under which the individual trust funds were set up. These programs should not be unduly influenced by considerations arising solely from the unified budget.

This is a responsible package, and one that I urge the House to support.

Mr. Chairman, I would ask my friend, the gentleman from Virginia (Mr. BROYHILL) if the gentleman has any additional requests for time?

Miss JORDAN. Mr. Chairman, I rise in support of H.R. 11333 which provides an 11-percent increase in social security benefits and which increases supplemental security income benefits.

This bill provides for a two-step increase in social security benefits. The first step will be a 7-percent increase which will be received in early April 1974. The second step will be an additional 4-percent increase which will be received in July 1974. The bill also raises the basic supplemental security income payments for an aged individual to $140 in January 1974 with an additional $6 increase in July 1974; and for an aged couple to $210 in January 1974 with a further increase of $9 next July.

Many of my colleagues have also risen to support this bill today. Their support for social security increases at this time attests to the success of the program. Social security keeps some 10 million people out of poverty. Poverty due to death of the breadwinner in the family has been virtually eliminated due to social security.

Social security is more than a retirement program. It is the largest life insurance program, the largest disability insurance program, the largest health insurance program, as well as the largest retirement program in the Nation. Social security is well accepted by the American people because it is a universal program providing benefits to eligible recipients as a matter of statutory right with a minimum of administrative discretion, covering the rich as well as the poor, irrespective of race, color, creed, or sex. As the board of directors of this enterprise, Congress has steadfastly kept the social security program on a financially sound basis. The long-range financial schedule in the law gives as much stability to the program as is possible in this uncertain world.

In addition, many of my colleagues in the House have joined in supporting this bill due to the astronomical price increases which have occurred over the past few months. Food prices alone have risen almost 30 percent in the past 3 months. An individual receiving a fixed check from social security cannot absorb these price increases from one week to the next.

More importantly, the social security increases provided for in this bill are desperately needed not only because of the price increases which have occurred in the past, but because of the price reductions which are not expected to occur in the future. The higher cost of eating is here to stay. Food prices are not expected to go down in the near future; they may level off, but in doing so they will remain at their highest levels ever.

Food prices will not go down because demand is up both in this country and abroad. Foreign buyers have money to pay for the food they need. They have money because they have the advantage of two devaluations of the dollar in a 15-month period. To the American consumer food prices have risen 30 percent, but to the foreign buyer food prices remain approximately the same as they were a year ago.

Food prices will not go down because supplies will not catch up with demand. Although additional acreage for corn

and soybeans is being put into production both here and abroad, most of the productive land is already being used. Meat supplies will not dramatically increase for the basic reason that it takes 9 months to produce a calf and 2 years to raise a market-ready head of cattle. Even if our supply of livestock were to be increased, it would mean less meat now as ranchers withheld stock from the market for breeding purposes.

Food prices will not go down because wholesalers and retailers will be catching up from last summer when their margins were held down by price controls.

I am particularly gratified that the members of the Committee on Ways and Means provided for increases in supplemental security income benefits beginning in January 1974.

Since the constitution of the State of Texas prohibits the State from supplementing the basic SSI benefits, the increases provided in this bill will assure that no one in Texas will receive less money under SSI than they now receive from the State under the old age, blind, and disabled program.

Last September I introduced legislation which would have provided for a 7-percent increase in social security benefits effective January 1974, I applaud the distinguished chairman of the Ways and Means Committee for providing the leadership necessary to deal with this subject in committee and to report expeditiously a bill to the House. In many ways, the committee has improved upon my original bill. It is my hope that the bill will prevail in conference with the other body and will be signed into law by the President. I urge my colleagues to give this bill their wholehearted support.

Mr. BINGHAM. Mr. Chairman, tens of millions of Americans have a direct stake in the outcome of our deliberations here today. These are the 29 million social security beneficiaries who have been bearing the brunt of this administration's disastrous inflation. Since the last benefit increase in September 1972, the Consumer Price Index has already increased 9.3 percent, with some consumer costs much higher. For example, food costs have gone up 23.5 percent in this period, but social security beneficiaries have received no additional income to meet these added costs. When Congress enacted the last effective increase, we also established an automatic cost-of-living increase, but delayed its implementation until 1975. This year we were able to accelerate the date of the first of these increases to July 1974, but even this is clearly not soon enough.

Beginning in September, I undertook a number of efforts to win congressional approval of speedier increases, since I have been convinced that the elderly should not have to wait until next year to be compensated for this year's inflation. In October, 112 of my colleagues joined me in sending letters to the acting chairman and the ranking minority member of the House Ways and Means Committee urging them to act on the immediate 7-percent across-the-board increase in social security benefits. This expression of widespread support for such an increase was clearly influential in focusing the attention of the committee on the increasingly desperate needs of the elderly. When the committee continued to delay action, however, I joined with Representatives REUSS, VANIK, FULTON, and THOMPSON in urging the Rules Committee to accept a combined social security increase and tax reform amendment to the debt limit bill. The Rules Committee accepted our proposal in the belief that both of these measures deserved consideration in this session of Congress. Adding these measures to the debt limit bill would have been attractive, since the administration would have been reluctant to veto such critical legislation despite its announced opposition to both the social security increase and the tax reform proposals.

The Rules Committee action startled the Ways and Means Committee, and led to the postponement of the debt limit bill and the decision to give separate and early consideration to the bill before us today.

H.R. 11333 provides a two-step, 11-percent cost-of-living increase in social security benefits. The first step would be a 7-percent increase effective March 1974, reflected in the checks received early in April, with the full 11-percent increase effective in June 1974, reflected in the checks received early in July. The minimum benefits would be increased from $84.50 to $90.50 a month for March through May 1974 and to $93.80 per month for months after May 1974. The average old-age benefit payable for March would rise from $167 to $178 per month and then to $186 a month for June 1974, and the average benefit for a couple would increase from $277 to $296 per month for March and to $310 for June 1974. Average benefits for widows would increase from $158 to $169 for March and to $177 for June 1974. Henceforth, benefits would be automatically adjusted each year in which there is at least a 3-percent increase in the cost of living over the previous year. I am disappointed by three aspects of the committee's bill. I have been urging an increase in social security benefits which would take effect no later than January 1974. I could not believe that social security recipients should have to wait any longer to be compensated for 1973's galloping inflation. However, the Social Security Administration has made it clear that they could not compute and process increased benefit checks any earlier than April 1974, since the agency is already hard pressed to implement the new supplemental security income program. I only regret that the Congress did not respond more quickly to our urgings for speedy action on social security increases which have been made repeatedly beginning this past summer. Earlier congressional action would have allowed an earlier effective date for increased benefits.

Second, I am disappointed that the committee decided it was necessary to raise the amount of annual earnings subject to social security taxes from $12,600 to $13,200, and in future years to increase the tax rate itself. This 22 percent increase in the effective social security tax rate for those earning $13,200 or more each year is intended to cover the additional costs to the social security trust fund attributable to the benefit increase of $900 million in fiscal year 1974 and $1.7 billion in fiscal year 1975. The seven percent increase effective in January 1974 which I advocated would not have required any increase in social security taxes as it could have been paid out of existing surpluses in the social security trust fund.

Finally, I am deeply disturbed that the committee bill has not grappled with the vexing problem of insuring that these social security increases will not be offset by reductions in other forms of Federal financial assistance. This is the so-called "pass-through problem". It is caused by the fact that social security increases in many cases make many social security recipients ineligible for, or cause payment reductions in, veterans pensions, medicaid, public housing, food stamps and public housing programs. Many of my own constituents have seen social security increases offset by reductions in other programs or have even suffered reductions in their total monthly benefits. No one should have to pay this kind of penalty simply because of the perverse operations of overlapping, uncoordinated Federal programs, thereby making consideration of this problem as well as others out of order. I am concerned that unknown numbers of social security recipients across the country will not receive the benefits of the increases we are considering today because the "pass-through problem" has been ignored once again. I urge the Ways and Means Committee and the Committee on Veterans' Affairs to act on legislation I have introduced before the effective date of these social security increases next March, so that these increases will be disregarded in determining eligibility for other Federal assistance programs.

Despite these problems, Mr. Chairman, I will vote in favor of this bill. It promises much needed relief to millions of social security recipients whose health and comfort have been steadily eroded by constant inflation. I hope the bill's shortcomings will be corrected in short order, so that millions more will receive the full benefit of the increases this bill will make possible. Finally, I hope the Congress will stand fast against the predictable opposition of this administration to the enactment of this legislation. We cannot expect the elderly to shoulder the full burden of fighting inflation when they are the most severely affected by that inflation. I urge my colleagues to support H.R. 11333.

Mrs. HOLT. Mr. Chairman, the rapidly escalating cost of living has deeply eroded the purchasing power of many Americans; it has had especially disastrous effects on those who are forced to make ends meet while living on a fixed retirement income. These older Americans with limited financial resources have no means to supplement their small annual incomes; their ability to live out their remaining years in dignity is directly dependent on the people of this country.

The bill before us will provide increases in social security cash benefits and supplemental security income payment levels. Older Americans are caught in a

vicious squeeze between rising prices and fixed income. Each increase in the cost of living has the net effect of a reduction in income for these people. The immediacy of this problem is aptly described by the statement of the National Council of Senior Citizens that older Americans "cannot wait until July to pay today's prices."

Mr. Chairman, we have a very serious problem facing this body to which we must turn our attention. I am deeply concerned that the day of reckoning is rapidly approaching for the social security system. Since January 1970, social security benefits have increased 51.8 percent; the passage of H.R. 11333 will drive this figure up to 68.5 percent. These benefit increases have been financed primarily by increases in the taxable wage base.

We must begin to consider carefully the long run effects of our actions. Increases in employer contributions to the system will naturally raise the cost of doing business and will ultimately be passed on to the consumer in the form of higher prices. The prospect of another round of spiraling inflation is very real.

In addition, there is a finite limit on what the American taxpayer can afford or will be willing to pay to support this system. Many of my constituents are extremely disturbed by the rapidly increasing bite social security taxes are taking in their pay checks. We cannot continuously vote increases in benefits without carefully reviewing the long run impact on the program. I strongly maintain that the time has come for a comprehensive review of the entire program. We must clarify its objectives and quantify its current and future abilities to meet these objectives.

Mr. Chairman, if we are not careful we are going to kill, yes, really kill, the goose that laid the golden egg.

Mr. ANDERSON of California. Mr. Chairman, I rise in support of this proposal which would provide a 7 percent increase in social security benefits beginning in March 1974, and an additional 4 percent increase beginning in June 1974.

While I strongly feel that the 30 million recipients of social security should receive an increase in benefits beginning in January, and I introduced a measure with 78 cosponsors which would have accomplished that aim, I believe the bill before us today is a belated, though necessary step in the right direction.

This increase is necessary merely to catch up with the skyrocketing cost of living which has been eating into the already limited income of the elderly. For example, during July, August, and September of this year, the cost of living rose by over 10 percent. And food costs rose by an astounding 28.8 percent.

As a result, those on retirement incomes have been particularly hard hit, and are having an even harder time making ends meet, especially since a quarter of their income goes for food. Thus, the elderly, who have a great need for a nutritious diet to maintain their health, are forced to eat less and suffer more.

This measure would result in a two-step increase in benefits with a total increase of $19 per month going to the retired worker, with no dependents, and $33 per month going to the retired couple.

It is our responsibility to insure that the elderly live out their remaining years in good health, without fear of want, and in dignity. In that regard, this measure will help, and I urge my colleagues to join with me in supporting this bill.

Mr. DORN. Mr. Chairman, the question has been asked as to the effect of the social security increases under discussion here on veterans' pensions.

Let me point out that earlier this afternoon we agreed to certain amendments and sent back to the Senate H.R. 9474, which will provide a 10-percent increase in nonservice-connected benefits effective January 1, 1974. This bill will provide about $240 million in additional benefits to veterans and dependents and will do a great deal to offset the impact of the 20-percent social security increase which became effective earlier this year.

Now, insofar as the 7-percent increase under discussion here is concerned, which may become effective next March or April, this increase would have no impact on veterans benefits for the remainder of the calendar year 1974 because we have a rule that income which becomes effective during the year will not be counted for pension purposes until the beginning of the following year. There is some debate in the Veterans' Administration as to proper application of this rule, but we are urging that the Veterans' Administration use the end of the year rule in dealing with this 7-percent increase so that it would not have an impact on veterans' pensions until January 1, 1975.

In the meantime, the administration is planning to send up a rather comprehensive package of amendments relating to the pension program and both our committee and the Senate committee has agreed to consider these proposals. They could result in substantial increases of pensions to certain individuals, particularly low income individuals.

In other words, we will be considering the pension program again before the impact of the 7-percent social security increase is felt. The committee has followed the practice in the past of raising veterans' pensions from time to time, based on cost-of-living changes and in general this has kept up, or in some instances, exceeded the changes in the social security program. I feel sure that as we make adjustments from time to time, based on cost-of-living changes, that we will be successful in the future as we have been in the past in keeping the veterans' pension program abreast of social security changes.

Mr. BADILLO. Mr. Chairman, I rise in support of H.R. 11133, the Social Security Act amendments, and urge speedy passage since inaction on the measure would mean a considerable delay in the implementation of the scheduled social security benefit increases and cause severe hardship for our senior citizens.

As my colleagues are aware, the extraordinary inflationary pressures experienced by our economy spell hardship for all American families, while the astronomically steep increase in food prices mean near disaster for those in the low and low-middle income categories who customarily spend a large portion of their disposable cash for this item. Such individuals and families are forced to devote increasing proportions of their budgets to food and in many cases are having to do without such other necessities as replacement clothing.

Since the majority of our senior citizens are on low, fixed incomes, their plight is particularly severe. Unable, in most instances, to increase their earnings, they are living in dire poverty. All of us are aware of news accounts featuring increased incidents of shoplifting among the elderly, who are reduced to stealing to secure some of the necessities of life. This Nation's failure to safeguard the welfare of those who have borne the brunt of the depression in the 1930's and can take credit for the tremendous advances in growth and prosperity made by this Nation during the past decades will remain a shameful blot on our history. If the level of a civilization can truly be measured by its care and concern for the weakest of its members then we have a long way to go. The scheduled 7 percent increase in March and the additional 4 percent effective in June will alleviate some of the hardships, but they will bring no comfort during the bleak, cold months ahead. I realize that the committee has done its utmost and that even the present compromise is opposed by the administration, but I wish that we could do more, effective immediately, for our senior citizens.

I am, however, pleased to see the cost of living provision in this bill which will cut the time lag in providing increases from 7 to 3 months.

But, while I urge the speedy and overwhelming passage of the bill, I am unhappy with some of the problems that remain in it. I refer here particularly to the language which permits States to include, under the hold-harmless provision, the scheduled $10 increase in supplemental security income grants. The bill extends the protection of the hold-harmless for 1 year only in this regard, which means that while States can, without prejudice and without revising their grant schedules, add this amount to payments going to beneficiaries effective January 1974, by January of 1975 they will have the option of either falling back to their 1972 payment levels and reducing payments to beneficiaries, or finding funds in their budgets to cover the entire amount of the increase. Recipients of these grants should be assured of the highest possible level of payments, payments adequate to enable them to live a decent life, payments subject to adjustment only to assure that they more fully meet the needs of the beneficiary.

Mr. HOGAN. Mr. Chairman, I rise in support of the bill, H.R. 11333, which would provide a 7-percent increase in social security benefits beginning in March 1974 and an additional 4-percent increase beginning in June 1974.

Congress, earlier this year, recognized its responsibility to our elderly citizens by enacting Public Law 93–66, which

would increase social security benefits by 5.9 percent effective June 1, 1974. However, it is apparent that the cost of living will have increased far in excess of the 5.9-percent rise by June of 1974.

I do not want to deliberate on our spiraling inflation and the dent that it is putting into everyone's pocketbook. And it takes little imagination to appreciate the impact that this inflation has on those with limited fixed incomes.

Currently, the average annual benefit for retired recipients amounts to $165 per month. For 1 out of 7 aged couples and 2 out of every 7 elderly single persons, this amount represents 90 percent of their total income.

Under the bill before us, the average monthly social security benefits would be increased from $165 to $177 for retired workers; from $274 to $293 for aged couples; and from $158 to $169 for elderly widows.

This increase in social security benefits would be especially helpful to those people in Prince Georges County, Md., which covers the larger part of my district. The rental rates for senior citizens' housing in Prince Georges County is based on 25 percent of the residents' adjusted gross income. In essence, these people will have to set aside 25 percent for rent regardless of the amount of increase in their social security benefits. Therefore, an increase of 7 percent would be a minimal amount to meet the escalating increase in the cost of food and other essentials.

It is our responsibility as legislators, and as human beings, to reverse the trend of neglect, and instead insure that the elderly live out their remaining years in good health without fear of want, and in dignity knowing that a grateful society appreciates their years of service and dedication to building a better America.

Mr. HARRINGTON. Mr. Chairman, more than one-quarter of the 20 million Americans over the age of 65 have incomes below the officially established poverty line. Millions of older Americans in our Nation, many of whom are living on fixed incomes, have been victimized by rampant inflation since the date of the last increase in social security benefits—the 20-percent increase that took effect in September of 1972. Since that time, consumer prices have risen by more than 7 percent, and in recent months, the consumer price index has risen at a seasonally adjusted rate of more than 10 percent, with food prices—of critical importance to elderly Americans—climbing at a rate of nearly 29 percent.

In light of the compelling needs of our elderly citizens, I appreciate the opportunity today to rise in support of legislation that will increase social security benefits by a total of 11 percent over the next 9 months. This bill, H.R. 11333, also contains important provisions which will improve the supplemental security income—SSI—program, scheduled to take effect in January of the coming year. While I support this legislation, it has a number of shortcomings which I believe should be addressed.

I cannot conceal my dissatisfaction, however, with the manner in which this legislation was brought before the House. I have consistently opposed the granting of "closed rules" for legislation, whereby a bill can be brought to the floor for consideration, but under which no Member can offer or support amendments, however desirable, and however many of us support such amendments. Frankly, I believe this procedure is undemocratic. It forces the House of Representatives simply to act as a rubber stamp, either voting a proposal up or down.

As the closed rule is almost exclusively used by only one committee, and it is used primarily on bills of critical national importance, it deprives all Members of the House other than those 25 on the committee a meaningful voice in shaping legislation of great and often enduring importance.

This procedure gives a stranglehold on key legislation to a handful of Congressmen. It frustrates the will of the House, and is at odds with the principles of representative government. Time and time again, this House considers complex legislation, where there are considerable differences of opinion, on a take-it-or-leave-it basis. While the Ways and Means Committee, which I commend for its diligence and competence, almost always produces responsible and worthwhile legislation, I nonetheless believe that the "closed rule" is an unnecessary and undesirable straitjacket on the workings of this House.

Early in the 93d Congress the Democratic Caucus took a most responsible action when it enacted restrictions governing the use of the closed rule. One caucus rule requires that whenever a committee chairman seeks a closed or modified rule, he must give to the House four legislative days notice. This rule is being skirted today—H.R. 11333 has been brought before the House without the specified notice. While I agree that the urgency of this legislation requires its prompt consideration by the House, it is my view that this exception to the caucus rule should not be considered a precedent for future actions.

BENEFIT INCREASE NEEDED NOW

The principal fault of this bill is that the increases in social security benefits will not even begin to take effect until next April—6 months from now. America's senior citizens need these benefit increases today—not months in the future. I cannot accept the argument of the Social Security Administration that they are physically unable to implement benefit increases until the March checks that will be received in April, 1974.

Were this bill open for amendment, I would support changing the legislation to provide an immediate 7-percent increase in social security benefits. But the closed rule ties my hands—as well as those of the remaining Members of this House, a majority of whom I believe would support making the benefit increase effective now.

THE NEEDS OF ELDERLY AMERICANS

There are 5 million Americans over the age of 65 who are poor. Some 234,000 elderly Americans in New England—110,000 of these in Massachusetts alone—have incomes below the poverty line. Proportionally, the elderly bear a heavy share of our Nation's poverty. While the elderly comprise about 10 percent of our total population, nearly 20 percent of our country's poor are over the age of 65. In Massachusetts, nearly one-quarter—23.5 percent—of the States poor are elderly.

The poverty of our Nation's senior citizens is a national tragedy and a national disgrace. In 1972 the median income of families headed by an individual over the age of 65 was $5,968—half that of younger families. In the same year, 91,000 elderly families had yearly incomes below $1,000. Another 5 percent of our senior families, 402,000 Americans, had incomes of less than $2,000, and 1.2 million older families had incomes smaller than $3,000.

The plight of the elderly person living alone or with nonrelatives is equally distressing. One-half of the 6.2 million older people living alone or with nonrelatives had incomes of less than $2,397 in 1972. Nearly 450,000 individuals over the age of 65 had incomes of less than $1,500. Even worse is the plight of elderly black families and women over the age of 65.

According to reports published by the Department of Health, Education, and Welfare, the proportion of black elderly families living in poverty is more than three times that of white families.

THE IMPORTANCE OF SOCIAL SECURITY

These grim statistics require a concerted effort by our Government to better the lives of elderly Americans. Social security is increasingly the key component of the income situation of Americans over the age of 65. In 1967, one-quarter of the total income of older Americans came from social security, ranking social security second only to employment earnings—30 percent—in importance. And, the proportion of dependence on social security is increasing. Earnings from employment have been in decline over the past 15 years. During the decade between 1958 and 1967, for example, the proportion of income arising from employment earnings dropped from about 38 percent to a level of 30 percent in 1967.

Government income-maintenance programs are rapidly becoming the critical element in providing for the health and welfare of our Nation's elderly. Yet the development of the social security system clearly has not kept pace with the increasing importance of social security income to our Nation's elderly. Until July of this year, when Congress enacted Public Law 93–66, there was no provision in the social security law which tied benefit levels to the cost of living. As a result, the social security system has been continually plagued by sporadic and haphazard congressional attempts to bring social security payments in line with the increases in the cost of living—attempts, not always successful but always made after the fact. The adequacy of the social security system has been questionable, and millions of older Americans who depend on social security for their welfare have on far too many occasions seen benefit increases obscured in internecine struggles within the Congress and between the Congress and the executive branch.

Clearly, the social security system must be structured so that the needs of the elderly are met without being obstructed as part of political turmoil. The cost-of-living provision of Public Law 93–66 was a step in the right direction, but an incomplete one. It promses senior citizens with a 5.9-percent increase in benefits for June of 1974—11 months after the date of enactment. In the interim, older Americans have been fighting a losing battle against higher prices—a battle they cannot win without greater and more immediate Government help.

The bill now being considered, H.R. 11333, makes further improvements, but still falls short of the mark. A 7-percent increase in social security benefits is to be provided beginning in March of 1974—the check would be received in April—and an additional 4-percent cost-of-living increase will be made for checks received in July. As a result of these increases, 30 million Americans will be eligible for an additional $2.4 billion in social security benefits. The average old-age benefit will rise from $167 to $178 per month as part of the first step in the benefit increase, and will rise further to $186 a month when the second part of the increase becomes effective. The average benefit to disabled workers will rise from the current $184 per month, first to $197 and then to $206 per month. The bill will also make improvements in the cost-of-living adjustment formula so that the time lag between computation of an automatic increase and actual payment to beneficiaries will be cut from 7 months to 3.

These are worthwhile improvements. But it should be reemphasized that by the time that these benefit increases are actually received, they will probably have no more effect than to bring most recipients back to the point they were at when the current wave of inflation began. And, senior citizens will have endured more than a year and a half without any additional compensation for the financial difficulties of soaring prices. Improvements in the social security system should do more than maintain a perilously low status quo of income. The social security system should be restructured so that increases in benefits translate to real increases in income, and subsequent improvements in the lives of elderly Americans depending on social security.

THE PAYROLL TAX

As has been typical of all increases in social security benefits the one proposed today will be financed by increasing the payroll tax. Presently, the first $10,800 of every American wage earner participating in the social security system is taxed at the rate of 5.85 percent. Congressional actions already taken raise the payroll tax wage base to $12,600 in January, and this bill would further increase the taxable income to $13,200. And, the social security tax rate on wages would begin to rise in 1977.

I believe that the time has come to question the whole manner in which the social security system is now financed. What seemed to be a proper method of financing a very limited program when the social security system started in 1936 may no longer be appropriate when the program's importance, and goals, have expanded greatly.

In recent years, the Federal tax system has become less progressive, primarily because of the regressive social security payroll tax. In 1949, the payroll tax was at a 2-percent rate, applying only to the first $3,000 of covered income, with a maximum tax of just $60. Under present law, the taxable earnings have jumped to $12,600, the maximum tax rate to 11.7 percent, and the maximum tax—which is paid by most middle-income families, has risen to $1,263.60. In the 3 years—1972 through 1974—the contribution of the social security tax to total Federal revenues has jumped from 25.8 percent to 30.5 percent, and in terms of dollar receipts, the last 3 years have shown a jump in social security tax revenues of $24 billion—or 45 percent.

The social security tax is regressive because the burden falls most heavily upon those who can least afford it. Beginning next January, an individual earning $13,200—assuming enactment of H.R. 11333—will pay exactly the same tax as an individual earning, for example, six times as much—$79,200. The effective tax rate for the individual earning $13,200 will be 5.85 percent, while the rate for the individual earning $79,200 will be less than 1 percent.

The time has come to reject the idea that the justification for the regressive payroll tax is, as argued, that "those who pay most heavily are those that stand to benefit." Put simply, there is no relation between the payroll taxes paid by any individual and whatever benefits he may receive years later, because the social security system is emphatically not an insurance program of the classical type. The benefits now being received by elderly and disabled Americans are being paid for by the current contributions of all working Americans. Thus, for example, when a worker earning $10,800 annually receives a paycheck at the end of this month, with $52.65 deducted for social security, he is not paying for his own benefits at all. He will never pay for his own benefits—instead they will be paid for by wage earners in the years hence when today's worker is a social security benefit recipient.

It seems to me that the cost of a program to help the poor, the aged and the disabled should be paid out of the income of the whole society, not just out of the first $10,800—or $13,200—of covered income. At the least, the social security tax itself should be revised so as to cover more earned income, but with progressive tax rates and complete exemptions for the very poor wage earner. More appropriately, it seems to me, Congress should consider financing a portion of the costs of social security out of general revenues—which are derived from the generally progressive personal income tax structure and from corporate taxes.

SUPPLEMENTAL SECURITY INCOME (SSI)

H.R. 11333 also contains important improvements in the supplemental security income—SSI—program, some of which are controversial. When Congress passed the Renegotiation Act—now Public Law 93–66—it provided for an increase in SSI benefits of $10 for individuals and $15 for couples, to become effective on July 1, 1974. H.R. 11333 would implement this increase on January 1, when the SSI program takes effect, and would further increase benefits on July 1, 1974, by $6 for individuals and $9 for couples. As a result, on January 1, 1974, monthly SSI benefits would be increased to $195 for individuals and $210 for couples, and 6 months later these benefits would rise further to $201 and $219.

The SSI program provides for Federal assumption of the costs of assistance programs to the aged, blind, and disabled. More than 1.8 million recipients of old-age assistance, 78,000 recipients of aid to the blind, and 1.2 million recipients of aid to the permanently and totally disabled stand to be helped by the SSI program. Federal minimum payment levels have been established, and in many States these levels exceed existing assistance payments, so that benefit levels within these low-payment States will increase markedly.

However, in other States, such as Massachusetts, the current State benefit levels for the same categories of assistance are far above the Federal benefit level under the SSI program.

Public Law 93–66 provides, in States where current State benefits exceed SSI benefits, that those 8 to 10 States will be "held harmless" to the levels of State expenditures for the affected programs in fiscal year 1972. In other words, the "hold harmless" provision assures those States with high benefit levels that implementation of the SSI program will cost them no more, in State funds, than what had been previously expended under the old matching-grant program. However, the law provides that when a State wants to increase its benefit levels above the levels of 1972, then these additional costs must be paid for entirely by the State.

The increases in benefit levels for SSI recipients contained in both Public Law 93–66 and H.R. 11333 could work to the inequitable disadvantage of these high-payment States. Increasing SSI benefit levels greatly increases the amount of Federal funds that will flow to those States whose previous benefit levels had been below the federally guaranteed SSI minimums, while not improving assistance benefits to recipients in high-benefit States, such as Massachusetts, at all, because these States already pay benefits in excess of even the increased SSI payment level.

Commendably, the Ways and Means Committee has included in H.R. 11333 a provision which would restore balance to SSI assistance to States and which would give assistance recipients in high-benefit States the same effective increases in benefits that will be received by SSI recipients in those States with low benefits, where the SSI benefit level is what the recipient will actually get. This provision would allow for a "one-shot" increase in the allowable State benefits, the cost of which would be entirely assumed by the Federal Government under the "hold harmless" provision. This one-shot increase will allow States, like Massachusetts, at no cost to themselves, to increase their bene-

fits by the same amount of the SSI benefit increases also contained in H.R. 11333—$10 for individuals and $15 for couples. This provision of H.R. 11333 would increase Federal grants to the affected States by $100 million.

My distinguished colleague, Congresswoman GRIFFITHS, has argued against this provision of H.R. 11333, and has announced her intention to offer an amendment which would delete this section from the bill. I intend to vote against this amendment. It is argued, in favor of the amendment, that the Nation's taxpayers should not have to bear an additional $100 million cost, the benefits of which will be received by those few States which already have assistance benefits in excess of both the national norm and the SSI levels. However, without this provision, the taxpayers from some of our most populous States—including Massachusetts, California, New York, Michigan, New Jersey, Pennsylvania, and Wisconsin—will be footing a large part of the bill for very substantial increases in SSI benefits that do nothing for their States at all. Further, why should those States which have, in a progressive character, been paying comparatively good assistance benefits, be penalized for their achievements? Why should not assistance recipients in those high-benefit States receive the same benefit increases that will go to individuals in every other State of the Union?

I believe that, as a matter of equity, the States which have been generous in their assistance payments to the aged, blind, and disabled should receive the same benefits of the SSI program that will accrue to those States which, for a variety of reasons, have had less generous assistance programs. I urge that my colleagues defeat this amendment.

NEED FOR A PASS-THROUGH PROVISION

Perhaps the most critical shortcoming of H.R. 11333 is that it fails to insure against the possibility that increases in social security and SSI benefits will result in corresponding decreases in the benefits that recipients receive from other assistance programs. This problem, recurrent in congressional efforts in recent years to increase social security benefits, is not adequately addressed in this bill.

When Congress passed a 20-percent social security benefit increase in 1972, one of the more unfortunate results was that many individuals received social security benefit increases that raised their incomes to the point that they were no longer eligible for other assistance programs—such as Veterans Assistance, to name but one. In many cases, in fact, the increase in social security benefits left the recipient in worse shape, in terms of total income, than he or she had been before the 20-percent social security boost. There is no reason to believe that a similar misfortune will not befall many Americans as a result of enactment of this bill.

Congress should not take away with the one hand what it gives with the other. The intent, as I have noted, of our assistance programs to our elderly and to our needy should be increased to genuinely provide the financial means through which the standard of living of the elderly and the needy can be improved. The illusion of help is not good enough. It is my view that as a matter of highest priority, the Congress should rapidly enact legislation to guarantee that the increases in social security and SSI benefits contained in H.R. 11333 should not result in any reduction in the benefits of other programs.

While clearly not a perfect bill, H.R. 11333 is nonetheless legislation which will improve the lives of millions of Americans, those receiving social security assistance as well as those eligible for the supplemental security income program. Congress now has an opportunity to show that it can and will act to help millions of elderly, poor, handicapped and disabled Americans. Now is the time to pass this bill.

Mr. BROYHILL of Virginia. Mr. Chairman, we have no additional requests for time.

Mr. ULLMAN. Mr. Chairman, we have no additional requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DINGELL, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11333) to provide a 7-percent increase in social security benefits beginning with March 1974 and an additional 4-percent increase beginning with June 1974, to provide increases in supplemental security income benefits, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to revise and extend my remarks on the bill H.R. 11333, and to include extraneous material, and tables, and further, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on H.R. 11333.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks announced that the Senate had passed with amendments in which the concurrence of the House is requested, a concurrent resolution of the House of the following title:

H. Con. Res. 378. Concurrent resolution providing for an adjournment of the House from November 15 to November 26, 1973.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1570) entitled "An act to authorize the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7746) entitled "An act to establish the American Revolution Bicentennial Administration, and for other purposes."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8916) entitled "An act making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes."

The message also announced that the Senate agrees to the House amendments to the Senate amendments Nos. 30, 37, and 46 to the foregoing bill.

CONFERENCE REPORT ON S. 2408, MILITARY CONSTRUCTION AUTHORIZATION, FISCAL YEAR 1974

Mr. PIKE. Mr. Speaker, I ask unanimous consent to call up the conference report on the Senate bill (S. 2408) to authorize certain construction at military installations, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. GROSS. Mr. Speaker, reserving the right to object—and I shall not object—I should like to ask the gentleman from New York to explain the conference report.

Mr. PIKE. Mr. Speaker, if the gentleman will yield, I certainly intend to explain the conference report. I also would like to say to the gentleman from Iowa that yesterday I asked unanimous consent that this particular bill be brought up on Thursday, and it was our intention to bring it up on Thursday. However, because of the fact that we have finished consideration of the other legislation so early, I thought that it would be a convenience to the Members to bring it up at this time. But I assure the gentleman from Iowa that we will explain the conference report.

Mr. GROSS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. PIKE. Mr. Speaker, I ask unanimous consent that the statement of the managers be read in lieu of the report.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of November 13, 1973.)

Mr. PIKE (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with in view of the fact that both the conference report and the joint statement of the managers have been printed and are available to the Members, and they are printed in the CONGRESSIONAL RECORD of November 13, 1973, on pages 36848 through 36859.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The gentleman from New York (Mr. PIKE) is recognized for 30 minutes, and the gentleman from Indiana (Mr. BRAY) is recognized for 30 minutes.

Mr. PIKE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on September 13, 1973, the Senate passed the fiscal year 1974 military construction authorization bill (S. 2408) in the total amount of $2,835,444,000.

On October 11, 1973, the House considered this legislation and provided new authorizations in the total amount of $2,715,924,000.

As a result of a conference, House and Senate conferees worked out the differences and agreed to a new adjusted authorization for military construction for fiscal year 1974 in the amount of $2,773,584,000.

The amount of new authority approved is $220,120,000 below the amount requested by the Department of Defense. A further reduction of $22.1 million was made in the amount of new funding authorized. This was made possible by applying unobligated balances against new authority granted to the Army, Navy, and defense agencies.

I am pleased to state that insofar as the monetary differences between the two Houses were concerned, there was about an even split.

The total authority granted is approximately $57.7 million above that granted by the House, and about $61.8 million below the Senate figure.

There were over 140 differences in the House and Senate versions. However, we were able to arrive at an agreement on each one. I will not go into a lot of detail because the Statement of Managers explains the action of the Conferees.

The most difficult problem encountered in the conference with the Senate was on the subject of bachelor enlisted quarters. The House added a provision to require a planned occupancy for permanent barracks of a minimum of four persons per room for enlisted grades E–4 and below and no fewer than two persons per room for enlisted grades E–5, E–6, and E–7. Based on the progress the services have made on the design of this year's bachelor enlisted quarters projects and the increased costs that would result as a consequence of a change at this time, the House reluctantly receded from the inclusion of this provision this year. However, the Secretary of Defense is directed to make a study of a planned occupancy for permanent barracks with a minimum of four persons per room for enlisted grades E–4 and below.

This study should provide by service, the one-time costs for changing criteria, the construction cost savings that will accrue in the fiscal year 1975 military construction program, an estimate of the construction cost savings for the next four military construction programs, impact on morale of personnel, the impact on recruitment of personnel under an all-volunteer force and the flexibility of room assignments. This study will be submitted to the Committee on Armed Services of the House and Senate prior to February 1, 1974.

However, we were able to retain many projects not included in the Senate version. In other words, we had to do some plain old horse trading. Section 610 was added by the House to insure that the Bolling-Anacostia complex in the District of Columbia would be retained for defense purposes. It would also permit previously authorized construction, which has been held up because of lack of approval of the National Capital Planning Commission to proceed with or without the approval of the NCPC.

No such provision was included in the Senate bill. This particular point was the subject of some discussion and debate among the conferees. The House provision was approved with general agreement among the conferees that in the next session of the 93d Congress both the House and the Senate committees would conduct hearings to determine the feasibility of the defense retention of all of the lands now comprising the Bolling-Anacostia complex.

Therefore, after giving a little here and taking a little there, your conferees did the best they could and believe that they have brought to the House a good bill that will provide adequately for the construction needs of the military during this fiscal year.

I want to thank the gentleman from New York (Mr. KING) for his dedication and assistance during our hearings and more especially in the conference. Also, I want this House to know that all members of your conference committee worked hard to bring this conference report before you, and I urge its adoption.

Mr. KING. Mr. Speaker, my colleague, the distinguished chairman of the Military Construction Subcommittee, has explained the details of our conference with the Senate. Therefore, I will not go into the matters he has discussed with you.

As in all conferences, it was necessary to compromise on individual line items requested by the services, and in some instances valid items were left out of the program we bring to the House today.

I want to congratulate my colleagues on conference committee for their dedication and efforts to bring this report to the House. Also, I especially want to point out to the Members of the House the excellent leadership provided by the gentleman from New York (Mr. PIKE).

Mr. Speaker, I cannot let this opportunity go by without paying a well-deserved tribute to the very capable and hard-working staff of the Committee on Armed Services and on the subcommittee which handled this legislation. The staff was invaluable in the markup of both the bill and the conference report.

Mr. Speaker, I urge the adoption of the conference report.

Mr. GROSS. Mr. Speaker, will the gentleman yield for two questions?

Mr. PIKE. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, may I assume that all amendments adopted in conference are germane to the bill?

Mr. PIKE. All amendments adopted in conference, I can assure the gentleman, are germane to the bill.

Mr. GROSS. Was there any money inserted in the conference to fund the President's unilateral action in intervening in the Middle East war?

Mr. PIKE. No, the action of the President had taken place after either the House or Senate acted and there is no such money.

Mr. GROSS. I thank the gentleman.

Mr. BRAY. Mr. Speaker, I have no request for time.

Mr. PIKE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PIKE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the conference report just passed (S. 2408).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR ADJOURNMENT OF CONGRESS OVER THE THANKSGIVING HOLIDAY

Mr. O'NEILL. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the concurrent resolution (H. Con. Res. 378) providing for an adjournment of the House from November 15 to November 26, 1973, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the concurrent resolution.

The Clerk read the Senate amendment, as follows:

Senate amendment: On page 1, line 4, strike out "1973." and insert: "1973, and that when the Senate adjourns on Wednesday, November 21, 1973, it stand adjourned until 12 o'clock meridian, Monday, November 26, 1973."

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MOTION OFFERED BY MR. O'NEILL

Mr. O'NEILL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. O'Neill moves to concur in the Senate amendment.

The motion was agreed to.

The title was amended so as to read: "Concurrent resolution providing for an adjournment of the Congress over the Thanksgiving holiday."

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 7446, ESTABLISHING AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

Mr. DONOHUE submitted the following conference report and statement on the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 93–639)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 6.

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 4, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 7. (a)(1) There are hereby authorized to be appropriated annually to carry out the provisions of this Act, except for the program of grants-in-aid established by section 9(b) of this Act, not to exceed $10,000,000, of which not to exceed $1,375,000 shall be for grants-in-aid pursuant to section 9(a) of this Act.

"(2) For the purpose of carrying out the program of grants-in-aid established by section 9(b) of this Act, there are hereby authorized to be appropriated such sums, not to exceed $20,000,000, as may be necessary, and any funds appropriated pursuant to this paragraph shall remain available until expended, but no later than December 31, 1976."

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 9. (a) The Administrator is authorized to carry out a program of grants-in-aid in accordance with and in furtherance of the purposes of this Act. The Administrator may, subject to such regulations as he may prescribe—

"(1) make equal grants of appropriated funds in each fiscal year of not to exceed $25,000 to Bicentennial Commissions of each State, territory, the District of Columbia, and the Commonwealth of Puerto Rico, upon application therefor;

"(2) make grants of nonappropriated funds to nonprofit entities, including States, territories, the District of Columbia, and the Commonwealth of Puerto Rico (or subdivisions thereof), to assist in developing or supporting bicentennial programs or projects. Such grants may be up to 50 per centum of the total cost of the program or project to be assisted."

And the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(b) For the purpose of further assisting each of the several States, the Territories, the District of Columbia, and the Commonwealth of Puerto Rico in developing and supporting bicentennial programs and projects, the Administrator is authorized, out of funds appropriated pursuant to section 7(a)(2) of this Act, to carry out a program of grants-in-aid in accordance with this subsection. Subject to such regulations as may be prescribed and approved by the Board, the Administrator may make grants to each of the several States, Territories, the District of Columbia, and the Commonwealth of Puerto Rico to assist them in developing and supporting bicentennial programs and projects. Each such recipient shall be entitled to not less than $200,000 under this subsection. In no event shall any such grant be made unless matched by the recipient."

And the Senate agree to the same.

HAROLD D. DONOHUE,
JAMES R. MANN,
M. CALDWELL BUTLER,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
EDWARD M. KENNEDY,
ROMAN HRUSKA,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Conferees agreed to the language of Senate Amendment No. 1 amending Section 4 of H.R. 7446. This language is consistent with the basic principle of the legislation in encouraging State and local participation in the Bicentennial observance. The Senate language further implemented this purpose in providing that the Administrator is to coordinate his activities to the extent practicable with those being planned by State, local and private groups. He is further authorized to appoint special committees with members from among those groups to plan such activities as he deems appropriate.

The Senate amended Section 7(a)(1) of the House bill by placing a ceiling of $10,000,000 annually for the expenses of the Administration. Included in that amount was an authorization of not more than $2,475,000 for annual grants of $45,000 to each State, Territory, the District of Columbia and the Commonwealth of Puerto Rico. The provision for the $45,000 grants was contained in a parallel amendment to Section 9 of the bill which authorized the Administrator to make equal grants from appropriated funds of not more than $45,000 to each of the recipients.

The Conferees agreed to reduce the $45,000 figure to $25,000 per entity and the annual authorization for this grant program to $1,375,000.

Section 7(a)(2) as added by the Senate authorized an appropriation of not more than $20,000,000 for grants-in-aid on a matching basis to the several states to assist them in developing and supporting Bicentennial programs and projects as provided in the new Section 9(b) as added by the Senate, the amount to remain available until expended but no later than June 30, 1976.

The Conferees changed this date to December 31, 1976, because of the continuing celebrations and commemorations anticipated throughout the calendar year of 1976.

The language of Section 9(b) as contained in the Conference Report is the revised language agreed to by the Conferees. The Senate language provided that the amounts received under Section 9(b) by any State could not exceed $400,000 per state on a matching basis. In Conference, it was agreed to change this language so that each recipient would be entitled to not less than $200,000 in grants on a matching basis under the Subsection. In addition, the District of Columbia, the Territories and the Commonwealth of Puerto Rico were included as eligible recipients. The Conferees recognized that each jurisdiction would, therefore, be assured of the right to participate in this grant program up to the amount of $200,000. The language of the Subsection makes it clear that these grants are subject to regulations prescribed and approved by the Board. The $200,000 amount is available for grants to each jurisdiction and considered obligated for that purpose, which, if not used, would lapse. It is not intended that the unused portion of the $200,000 minimum earmarked for each jurisdiction will be available for distribution to any other jurisdiction or for any other purpose. The remaining funds under the $20,000,000 authorization are automatically available for grants to any eligible jurisdiction that presents a program found acceptable to the Administration.

The Conferees retained Senate Amendment No. 4. It is merely a conforming amendment made necessary by the renumbering changes in Subsection (a) of Section 9.

The Senate Conferees receded from Senate Amendment No. 6 which would have provided that the Administrator would serve as Chairman of the American Revolution Bicentennial Board and the Vice Chairman shall be elected by members of the Board from members of the Board. The Conferees agreed to retain the original House language providing that the Chairman and Vice Chairman shall be elected by members of the Board from members of the Board other than the Administrator.

The Conferees intend that the regulations provide a reasonable period for applications for grants by eligible entities.

HAROLD D. DONOHUE,
JAMES R. MANN,
M. CALDWELL BUTLER,
Managers on the Part of the House.

JOHN L. MCCLELLAN,
EDWARD M. KENNEDY,
ROMAN HRUSKA,
Managers on the Part of the Senate.

PROVIDING FOR CONSIDERATION OF H.R. 11459, MILITARY CONSTRUCTION APPROPRIATION FOR 1974

Mr. McSPADDEN. Mr. Speaker, by direction of the Committee on Rules I call up House Resolution 701 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES 701

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 6 of rule XXI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the

State of the Union for the consideration of the bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes and the provisions of clause 2, rule XXI are hereby waived with respect to any appropriation contained in such bill.

The SPEAKER. The gentleman from Oklahoma is recognized for 1 hour.

Mr. McSPADDEN. Mr. Speaker, I yield the usual 30 minutes to the distinguished gentleman from Ohio (Mr. LATTA) pending which, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 701 provides for a waiver of the provisions of clause 6 of rule XXI of the Rules of the House of Representatives—the 3-day rule—in order that the House may consider the bill H.R. 11459, a bill making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974.

House Resolution 701 also provides for a waiver of the provisions of clause 2, rule XXI of the rules of the House—prohibiting unauthorized appropriations.

H.R. 11459 makes appropriations for military construction and family housing for the Department of Defense for the fiscal year ending June 30, 1974. The bill recommends new budget authority of $2,609,090,000, an increase of $285,869,000 above the amount provided in fiscal year 1973 and $335,810,000 below the requests of fiscal year 1974.

H.R. 11459 includes appropriations for construction in support of the Trident submarine and underwater-launched ballistic-missile systems.

Mr. Speaker, I urge the adoption of House Resolution 701 in order that we may discuss and debate H.R. 11459.

Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I agree with the statements just made by the gentleman from Oklahoma.

House Resolution 701 provides for the consideration of H.R. 11459, the military construction appropriation bill, 1974. This resolution waives the 3-day rule in order that we may consider the bill this week, and also waives points of order with regard to clause 2, rule XXI.

The purpose of this legislation is to make appropriations for military construction and family housing for the Department of Defense for fiscal year 1974.

The committee has recommended new budget authority of $2,609,090,000, which is an increase of $285,869,000 above the appropriations for fiscal year 1973, and a decrease of $335,810,000 in the request for fiscal year 1974.

The increase is due to several large programs. Most important is the construction in support of the Trident submarine and underwater-launched ballistic missile systems. This construction, to be initiated in fiscal year 1974, is a net increase of $112,320,000 over fiscal year 1973. Additionally, the cost of operating and maintaining military family housing has increased, therefore, there is an increase of $94,131,000 to meet these costs. Also, the Army has increased its bachelor housing program.

The reduction of $335,810,000 is due primarily to the announced and pending base closure actions on the military construction and family housing programs. Also, because of these announced closures, there have been a number of projects canceled at these bases.

Mr. Speaker, I urge the adoption of this rule.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I will be happy to yield.

Mr. GROSS. This is a most unusual procedure. Not 5 minutes ago the House approved the conference report on the authorization bill and 5 minutes later we are called upon to take up a rule-making in order for a bill that provides funds for the authorization measure.

How the Committee on Appropriations could know what the House would do with the conference report is a mystery.

Mr. LATTA. Let me say to my good friend from Iowa, this shows that this body can act with expedition if it really wants to.

Mr. GROSS. Yes; if it does not show anything else, it does show that.

Mr. McSPADDEN. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SIKES. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate on the bill be limited to 2 hours, one-half the time to be controlled by myself and one-half by the gentleman from California (Mr. TALCOTT).

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Florida.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 11459, with Mr. ANNUNZIO in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. The Chair recognizes the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, this bill comes to you under a rule which waives the 3-day requirement and waives the necessity for completion of the authorization process. We in the committee have no desire to circumvent the authorization process. The bill is brought to you in this manner because of the prospect for delays in the completion of the authorization process. There is no nongermane material in the bill.

It is the desire of the leadership that we expedite all essential legislation in every way that we can. This is one of the last remaining appropriations bills and it is deemed important to clear it in the House so that this part of our legislative program can be advanced as far as possible prior to the Thanksgiving recess and in that way help to avoid the logjam of uncompleted legislation which might build up early in December.

First let me express my very great appreciation to the members of the subcommittee and to the staff. I have highest commendation of this able group for the dedicated and conscientious manner in which they carried on the difficult work of the Subcommittee on Military Construction. It is an exacting task because hearings must be conducted day after day and week after week as line items are examined and witnesses are questioned on the requirements for funding proposals which are submitted by the various departments.

Understandably, there is not full agreement within the committee on some items, but the net result is a sound and workable package which I can strongly recommend to the House.

Again, let me say that I do so with appreciation for the outstanding contributions of my fellow members and the staff of the subcommittee.

The committee recommends that you approve new budget authority in the amount of $2,609,090,000 for military construction for fiscal year 1974. The original estimate submitted by the Department of Defense was for $2,944,900,000. An additional $35,400,000 was requested subsequently but was not approved by the authorizing committees and could not be considered by this subcommittee. The figures which I will cite for authorization reflect the effect of authorization action on new budget authority and are not necessarily the same as the totals shown in the authorizing bill.

Conferee agreement on the authorizing bill was in the amount of $2,723,711,000, a cut of $221,189,000. Your committee has made further cuts of $114,621,000 below the recommendations of the Armed Services Committees of the House and Senate. This is a total cut of $335,810,000.

Broken down by services, we have the following figures.

For the Department of the Army, the total request was $740,800,000. The authorization is for $684,394,000. Your committee recommended $627,475,000.

For the Department of the Navy, the total request was $705,700,000. The total of the authorization is $661,049,000. Your committee recommended $610,541,000.

For the Department of the Air Force the request was for $321,900,000. The committee authorized $294,096,000. We recommend funding of $269,702,000.

For family housing, the request was for $1,181,500,000 for 12,688 units. The committe is recommending $1,094,372,000 which will permit construction of 10,691 units, and which is approximately the amount authorized.

For your information, the funding for family housing includes much more than the construction of housing units. Costs in addition to construction of new units include modernizing, relocating, operat-

ing, maintaining, and leasing military family housing, as well as debt principal and interest payments on military family housing indebtedness. Also covered are construction of trailer spaces, minor construction, acquisition of Wherry housing, planning, furniture procurement, payments under the rental guarantee and section 809 which is armed services housing for essential civilian employee housing programs, payments to the Commodity Credit Corporation for housing built with funds obtained from the surplus commodity program, and servicemen's mortgage insurance premiums. Still other costs associated with housing miiltary families are carried in the military personnel appropriations. Housing allowances and cost of transportation of personnel and of household goods are examples.

To some extent, savings resulting from cancellation of prior-year projects as the result of base closures or other changes in requirements can be applied to finance the fiscal year 1974 program. Sufficient funds have been provided to allow for the construction of adequate units for those projects which remain valid in the fiscal year 1972 and 1973 family housing programs.

For defense agencies the total request was $19,100,000. The amount authorized is $10,000,000. We find available revenues are sufficient to finance this program through fiscal year 1974 so no new appropriation is approved.

This year's reduction in authorization is much higher than usual. However, your committee has recommended additional cuts as indicated. I can assure you there is no justification for other cuts. The Nation is moving into a peacetime force status—the level-off period when there are no longer requirements for participation in the conflict in Southeast Asia—and we begin with what we hope will be a long period of relative stability for our forces at strength levels based on worldwide treaty commitments.

Most base closures and realinements have now been finalized and are in process of being carried out. That means we are dealing primarily with permanent bases. We also are seeking to achieve an all-volunteer force. To do these things successfully we must attract a high-level type of personnel. Modern, sophisticated equipment demands personnel who are capable of manning and maintaining it. This also requires training facilities which are modern and barracks and homes which are livable. Providing these is a slow process. Construction is now very costly. Inflation continues to exact a heavy toll and the military construction budget is never large in comparison with other defense costs or domestic budgets. So this can be accepted as a modest program for an essential requirement.

"TRIDENT" PROGRAM

You will note from the report that we are embarking in a sizable way on the Trident program. It is discussed in the report before you on page 5. The Trident is a new, improved ballistic missile submarine which is larger and more survivable than any other submarine in the world. It has new, long-range missiles. As antisubmarine weapons are improved and as land-based missiles become more fearsome, we must have a new trump card which has a better prospect for survival in the years ahead. The Trident promises to give us such a weapon, one which the Soviets will know they cannot expect to knock out with a first strike. The Trident will increase the possible worldwide patrol area of our submarine fleet six-fold over that of current submarines. That means they can wait and watch just about anywhere in the world. We hope to assure maximum time for the submarines on station and minimum time undergoing repair and overhaul. Present plans call for the support facility for 10 Tridents at Bangor, Wash., with essential operational capability for the system in the late calendar year 1978, 5 years hence. The Navy originally requested $125,000,000 for military construction for this program. The request was revised to $118,000,000. We have cut it by $6,000,000. We expect a total cost of more than a half billion dollars for Trident construction. This is a new program and a big one, but it is for America's survival.

BASE CLOSURES AND REALINEMENTS

Your committee devoted much time to the question of base realinements. Substantial base closures and realinements were announced earlier this year. The announcement came late. It has resulted in significant delays in the preparation of this bill and it is unfortunate we did not have the announcement earlier. The Department of Defense has identified large savings associated with these realinements and closures, but it must be realized there will also be significant first costs. This is the shakedown period during which realinements are taking place and closure proceedings are being initiated—274 specific actions to consolidate, reduce, realine, or close military installations in the United States and Puerto Rico have been announced. This is expected to save $3.5 billion over the next 10 years and to result in the elimination of 42,800 military and civilian positions.

There is the possibility of a few additional closures or realinements, particularly it appears in the Army. However, the committee has taken into consideration all of the announcements to date in the preparation of this bill and we have carefully sought to identify possible weak bases which are likely to be found in any remaining closure or realinement actions. We seek to avoid funding new construction for bases which will not remain operational.

The committee also has consistently urged that a strong effort be made to utilize existing facilities during realinements rather than to undertake the construction of new facilities.

REDUCTIONS IN OVERSEAS BASES

There is a subject of particular concern to the committee. We did not feel that the Department of Defense is pursuing a cutback of unnecessary functions overseas and the reduction or closure of excess overseas facilities with the same determination that has been applied to functions and installations in the United States. The committee realizes that it would be a grave mistake to be too hasty in removing U.S. combat units overseas thereby undermining the military and political strength of the United States and the allies. We know there must be adequate facilities for the troops who are stationed overseas. In most areas land is scarce and once a base is given up, there is little likelihood of getting it back. However, taking all the factors into account, it appears there is room for reductions in our base structure overseas and wherever this could be accomplished, it would save money. We just do not feel the Department of Defense is giving adequate consideration to base closures or realinements overseas.

NATO INFRASTRUCTURE

In the report the committee has gone quite fully into the NATO infrastructure program. It begins on page 13 of your report. I recommend that you give it careful thought. Infrastructure has provided a flexible and useable instrument. It has made possible $3.4 billion worth of installations in support of the common defense of Europe. It represents a very fine example of cooperation and realistic cost sharing between the NATO allies.

We have from time to time noted disappointing delays by our own representatives and by our allies in taking full advantage of the opportunities provided by the NATO infrastructure toward saving money for the United States. Nevertheless, we are consistently gaining ground in that the NATO allies are providing year by year for an increasing share of the cost of the facilities which are a common requirement for the military defense of Europe. As a matter of fact, in 1951 we were paying 43 percent of the joint cost of the program. Now we are paying less than 20 percent.

This bill contains $40 million for our contribution to the NATO infrastructure. The figure of $95,650,000 which is carried on page 55 of your report may appear contradictory. That figure represents the total NATO infrastructure program—$20 million of this amount is in reimbursements from NATO allies and the remainder is transferred from other accounts such as Safeguard.

The committee is mindful of the uneasiness expressed in some quarters about the stability of the NATO alliance. This results from incidents occurring during the war in the Middle East. It is not the business of this subcommittee to analyze the future of NATO. Our job is to fund the U.S. part of its construction requirements. However, it is my personal opinion that the NATO alliance is a strong and viable organization and that when danger threatens within Western Europe, it will function as planned and anticipated. The war in the Middle East brought questions about the supply of oil which is essential to Europe and about transfers of equipment which had been prepositioned in Europe for the defense of Europe. These questions would not arise if Europe were threatened militarily.

HOUSING FOR BACHELOR PERSONNEL AND MILITARY FAMILIES

The committee is continuing its support for improved housing for bachelor personnel and for military families. We

have departed from the old idea of open bay barracks with their noise and lack of privacy which was the standard for so many years. It is the policy now to provide uniform rooms with bath for not more than three men per room for the lower grades of enlisted personnel, up to one man per room for the highest grades of enlisted personnel.

The family housing has improved accordingly. Quarters are now on a par with the average of those in private communities although it is not possible under present funding limitations to provide some desirable amenities such as garages and additional recreational space. However, there has been a steady effort on the part of the commtitee to insure the availability of more of the things which housewives very much want in their homes and on which until recent years they were not even consulted when military housing was designed. The bachelor housing program is proceeding in a very satisfactory manner. Family housing in this year's program has suffered a setback because of the limitations imposed by the authorizing committees.

By the use of the turnkey program, it has been possible to get more originality in the housing program and in most instances to save money by encouraging the contractor to develop his own designs and plans in competition with other bidders.

HOMEPORTING FOR THE NAVY

The committee is continuing to support homeporting for the Navy. The program is still somewhat small but it gives to a limited number of Navy families an opportunity to live where their men are stationed. The Army and the Air Force have long been able to accomplish this by allowing dependents to live overseas. Navy families could not enjoy the same privilege and this has meant additional family separations. One of the chief problems for retention of skilled and desirable personnel in the Navy is the simple fact that the family has been separated for such long periods from the man in uniform. In a partial effort to offset this, the Navy has transferred personnel so frequently the transfer costs have been excessively high.

COMMISSARY FUNDING

It should be noted that the committee has denied funding in a number of cases for commissaries. This action should not be construed as a policy decision. We realize the commissary facilities are a traditional part of military benefits. Our action is intended to stimulate the military toward devising other means of providing such facilities without coming to the Congress for public moneys. This could be done through a surcharge with which to establish a building fund for commissaries. The Government is subsidizing the commissary program at a level of nearly $300 million a year. They do not pay taxes. Their overhead is low. They are important to the military program but less so than in the days when military pay scales were very low and adequate shopping facilities were limited near the average military base. Now there are food stores and shopping centers around nearly all bases.

SOUTHEAST ASIA FUNDS

The end of hostilities in Southeast Asia left some unused funds which have been appropriated in prior years. At the beginning of the fiscal year there still remained in Southeast Asia funds for military construction $59.9 million. Of that amount $29.2 million is programed for use during fiscal years 1974 and 1975. This is for facilities for South Vietnam, Thailand, and other areas. Nothing is planned for Laos and Cambodia. In the main this is for roads and bridges and there is some vertical construction.

The means $30.8 million of the remaining SEA funds is not programed for expenditure at this time. Accordingly the committee has recouped $15 million of this amount and applied it to other projects. The remainder is available in case of unexpected emergencies.

AIR AND WATER POLLUTION

I am very glad to report to the House the continuing support and significant progress in both air and water pollution control programs. We are now well over the hump in these two essential programs. The committee recognizes their importance and has given solid support to them.

STATUS OF SAFEGUARD PROGRAM

There are no construction funds requested for the Safeguard program in fiscal year 1974. However, some $35,650,000 has been reprogramed from the Safeguard reserve to meet requirements which were generated in the NATO infrastructure account as the result of dollar devaluation.

A summary of the present funding situation of the Safeguard program follows:

The total amount of appropriation available to the Safeguard program is $646.8 million.

Against this, the current total estimated cost of the construction program including claims is $597.1 million.

Prior to the reprograming to NATO infrastructure, the Safeguard reserve was $59.7 million.

Transfer to NATO, $35.6 million.

Remaining Safeguard reserve is $14.1 million.

Obligations as of September 30, 1973, $568.8 million.

Expenditures as of September 30, 1973, $485.3 million.

DECENTRALIZATION OF FACLITIES

For a number of years this subcommittee has pressed the military services to decentralize some of the military programs away from Washington. Progress has been slow and tedious and results are minimal. It should be obvious the concentration of additional military activities in and around our Nation's Capital makes it a more inviting military target. It also means that personnel are being moved to one of the highest cost areas in the land. It means further congestion in an already congested area. Yet everyone wants to be close to the throne. Everybody wants to be in a position to influence the powers that be and impress the admirals and generals. We have even withheld appropriation but rental space is available.

I have to confess that during the year immediately preceding we have made less progress than in prior years. Some of this has been due to the large turnover of individuals in the Secretariat. It has been hard in recent months to find someone to talk to in these positions who was still there 3 or 6 months later. Nevertheless this committee wants it understood that we are very displeased at the comparative indifference to efforts to decentralize military programs away from the Capital. This is one good way to achieve revenue sharing. Certainly there is no reason why more of the activities and the funding which now come to Washington should not be in various States and cities throughout the country.

The committee has spent weeks and months in a dedicated effort to bring to the Congress a bill in which unnecessary projects are eliminated. In some cases, we may have been over zealous but I can assure you the committee is not prejudiced toward any project which may have been deferred. If a stronger case can be made in the Senate and the project is retained there, we shall give it a fresh look and an unbiased one when we go to conference. We feel that we have a good program, one that will help to meet the requirements for a strong defense program in the years ahead and one which will help to provide adequate living quarters, training facilities, research facilities and all the other things which are essential to a modern defense. We believe you can safely place your confidence in this bill.

Mr. BARRETT. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 584]

Abdnor	Fascell	Pike
Anderson, Ill.	Fraser	Reid
Archer	Goodling	Roberts
Baker	Gubser	Rooney, N.Y.
Blackburn	Hays	Rooney, Pa.
Blatnik	Hébert	Rosenthal
Brasco	Holifield	Rostenkowski
Brown, Ohio	Howard	St Germain
Buchanan	Jarman	Schroeder
Burke, Calif.	Karth	Seiberling
Chisholm	Kastenmeier	Sisk
Clancy	Keating	Spence
Clark	Kluczynski	Stuckey
Clawson, Del	Lehman	Teague, Tex.
Collins, Ill.	Madden	Udall
Davis, Wis.	Martin, Nebr.	Waggonner
Dellums	Mills, Ark.	Wyatt
Devine	Minshall, Ohio	Young, S.C.
Diggs	Murphy, N.Y.	
Edwards, Calif.	O'Brien	

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. ANNUNZIO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11459, and finding itself without a quorum, he had directed the electronic device, whereupon 375 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the journal.

The Committee resumed its sitting.

The CHAIRMAN. The chair recognizes the gentleman from California (Mr. TALCOTT).

Mr. TALCOTT. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I do not intend to reiterate what the gentleman from Florida (Mr. SIKES) has already told the House but there are a few comments I think would be pertinent.

First of all, our subcommittee was unanimously in favor of this bill. We have mixed feelings about the bill, of course. We have some definite differences of opinion about the bill, of course.

Nevertheless we were able to work out an agreement. The committee has had to work long and conscientiously over a very difficult and tedious subject. There are many installations involved.

There are hundreds of special interests involved, there are various priorities, and there are constant, continuing changes. The entire Defense Department is in a state of turbulence, with the changes we have undergone, the winding down of the war in Southeast Asia, as an example. There has been a dramatic reduction in forces; there is considerable development of new weaponry. There are the needs of the Volunteer Army, which have to be considered.

There have been many base closures and realinements. There is a shifting from wartime to peacetime activities, which has required many changes in many facilities.

Mr. Chairman, there is a new emphasis on responsible family men in the service rather than bachelor draftees and adventurers.

There is considerable construction which had to be delayed during the Vietnam war. There is a good deal of maintenance and repair that was neglected.

So we have tried to pare down to the low-dollar figure, without jeopardizing the morale or the readiness of our forces. We have tried to develop those projects which are essential to the modernization of our defense forces. We have tried to cut or defer those projects which have not been justified or which might not fit into the new programs of base relocations.

However, our cuts have been selective. Because of the turbulence and indecision of the Defense Department, our committee has spent more than 50 percent more time last year in hearings.

There are three increases that amount to $336 million which I think are important. These are as follows: $112 million for Trident; $94 million for family housing, the maintenance and operation of family housing; and $130 million for bachelor housing. These figures amount to $336 million of increases.

Even so, this budget is below the budget proposed by the President.

Mr. Chairman, we have made cuts in various other areas, mainly in those which affect the changes in base utilization plans.

There are three items which I would like to mention that have been neglected in our military construction program.

One pertains to language teaching. Language teaching has been neglected in our military forces. It may be more important than missiles in the future Army and in our defense and peacekeeping efforts. I believe we need to pay more attention to language teaching.

We have neglected our maintenance and repair of all our installations. Any private landlord or private operator would spend a good deal more on maintenance and repair than we have spent in protecting our military facilities.

Mr. Chairman, the hospital at West Point may be one of the most outdated, neglected, medical facilities in the forces. I think that we deferred this hospital because of the exorbitant price and some concern over the plans that were presented by the Army.

I happen to believe that they need to look into this matter quickly, review it quickly, and present to the committee and the Congress next year the plans and the appropriation for the medical facility there.

The gentleman from New York (Mr. GILMAN) has made a very persuasive presentation concerning this. He is one of the most knowledgeable Members of the Congress on this subject, and he urges us to do it. We deferred it, but I hope that we can get to it next year.

Mr. Chairman, I think the cut of $335 million reflects a degree of fiscal restraint which is responsible and appropriate at the present time. It is a prudent and selective bill in terms of the increases which are approved and those which are denied.

I think we have approved those projects which are truly necessary for national security. An example is the $112 million which is allowed for Trident construction to be initiated this year. We need the Trident system to assure our deterrence capability toward the end of this decade, and if we are to have these larger submarines and missiles, we must start acquiring the facilities to support them this year.

We have, hopefully, where it was possible, allowed additional amounts to cover increased costs. An example of this is in the family housing area where, of the total increase of approximately $127 million allowed, $94 million is merely to meet the increased cost of performing adequate operation and maintenance. Also, the allowed unit cost of new housing has increased by an average of $3,500 each from that allowed 2 years ago, and this is not really sufficient to meet the increases in construction costs which have occurred and are projected. We had to provide additional funds to meet these costs.

A third and very important area in which a significant increase of $130,084,000 has been provided is the Army barracks construction and modernization program. For years, testimony before our subcommittee has indicated that enlisted personnel were growing increasingly unhappy with open bay bachelor housing. We have worked with the military departments to encourage them to upgrade their standards for bachelor housing, and they have done so. The Army's fiscal year 1974 request, which has been very largely approved, reflects both the additional cost of building adequate bachelor housing and the size of the construction program which is needed to provide modern, permanent, adequate barracks at the Army's hardcore installations.

When one considers just these 3 increases for Trident, $112 million; family housing operation and maintenance, $94 million; and bachelor housing for the Army, $130 million; their total, $336 million exceeds the amount of the increase which is recommended over last year, which is approximately $286 million.

Obviously, there have had to be compensating savings and reductions elsewhere in the program. One factor which has brought about these reductions is the emphasis on base realinements which has been apparent in the past year. The administration has taken steps to reduce unnecessary costs of maintaining more military bases than are needed. As a result, many projects for which funds had been provided in prior years are no longer needed. Also, in an environment in which base utilization plans are changing, the requirements for construction projects do not, in many cases, become clear until force deployments have settled down. As a result, many projects are held in abeyance or deferred. In some cases, the original decisions reflect inadequate planning and require further study. The Army is currently engaged in such a study of its smaller bases now, and there will doubtless be further reductions in some of these bases in the future. In this situation, it seems unwise to proceed with construction projects at many of these bases.

One area in which I have become particularly concerned about the adequacy of the Army's planning is in language training. They seem to regard this very critical program as something which can be moved around the country whenever a barracks building or two is vacated at any location. Anyone familiar with education in general and with language training in particular should realize that this is not the case, that the heart of such training lies in its dedicated professionals and its academic traditions which cannot be duplicated at just any place where there happens to be space available.

To some extent the budget request this year is lower than it might have been because expensive programs such as the Safeguard antiballistic missile have been dropped. One cannot but regret the large amounts that have been spent and largely wasted upon this program. One can, however, be glad that, to some extent, our pushing ahead with this program, with the considerable cost and waste that that entailed, enabled the strategic arms limitation agreements to come about. As a result of that, enormous costs in this and in other strategic weapons programs can be kept within bounds, provided the letter and the spirit of this agreement is maintained. Funds appropriated for Safeguard in prior years which are not required to cover claims and necessary work have been reapplied to other programs to reduce new budget authority to the extent that the committee feels is prudent at this time.

In addition, many of the projects which were requested, which were nice to have, but not necessary, or which were

badly planned, have been eliminated from the bill by both the authorizing action and committee's recommendation. There are so many examples of the former that I will not offend anyone by simply pointing out a few projects. But, most of the projects which can be deferred, which should be restudied, or which may be at weak installations have been deleted.

One project which I feel I should mention and which confronted the committee with a real dilemma was the request for $25 million for a new hospital at the U.S. Military Academy at West Point, N.Y. I have seen the existing facility. It is certainly a hospital that needs to be replaced sometime in the near future. It may be the most inadequate medical facility in the Services. On the other hand, the Army's plans for providing a new hospital were so expensive as to be shocking. The hospital, for instance, was to be a 100-bed hospital at a cost of $25 million. We have built 400-bed hospitals for considerably less in recent military construction programs in other areas of the country, of course. Furthermore, 100 beds seem to be too many for the actual or projected workload for cadets at West Point. Finally, moving the hospital away from its present location, paradoxically, may make it harder to provide for cadets' medical needs without further large expenditures. All of this is spelled out in the committee's report and in our hearings. I feel that we had to defer this hospital at this time to force the Army to really restudy their plans for this facility. I hope our review can be completed promptly, because a new hospital is direly needed at West Point—and before the costs escalate even more.

The gentleman from New York (Mr. GILMAN) has made a persuasive presentation—he is the most knowledgable member concerning this hospital need.

Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. McEWEN), a member of the committee.

Mr. McEWEN. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from California (Mr. TALCOTT) concerning the hospital at the U.S. Military Academy at West Point.

Mr. Chairman, I had the opportunity of visiting this hospital just this past week, and I would confirm everything that the gentleman from California has said. This is an old, obsolete facility, with a great deal of maintenance that has been deferred, and deliberately deferred, in anticipation of the construction of a new facility.

I do not suggest, Mr. Chairman, that I know all of the answers on exactly the location or the size that the proposed new facility should be, but from my own viewing of the existing facility I know it is obsolete and I know of the need for a new facility.

I would like to say that the gentleman from New York (Mr. GILMAN) has been most industrious in bringing to the attention of all of us on the subcommittee the need for this hospital.

I was pleased at having the opportunity to see it. Everything Mr. GILMAN told us has been confirmed; namely, that the existing hospital is obsolete and the need for a replacement is great.

Mr. GILMAN. Mr. Chairman, I thank the gentleman from New York (Mr. McEWEN) for his thoughtful remarks concerning the long-needed West Point hospital proposal and appreciate the concern of the Subcommittee's distinguished chairman (Mr. SIKES).

I am hopeful that the deletion of funds for this project from the committee bill will only be temporary, and I am confident the Army will respond in the days ahead to the objections raised by the subcommittee. The Army has demonstrated its concern for the high costs of this and other construction projects at the Academy and has consistently and conscientiously tried to keep costs as low as possible.

Impressive documentation has been presented supporting the need for this new 100-bed hospital facility. The present hospital, already more than 50 years old, serves a large and growing community, both on the Academy grounds and in the surrounding region. Its archaic systems, extremely limited space and poor location have all been cited as major deficiencies. These obstacles have hindered the delivery of first-rate medical service to the thousands of patients who are served annually.

As these deficiencies become more acute with the passage of time, the costs of construction increase to even higher levels.

The Army Corps of Engineers has exhaustively examined alternative proposals in an effort to find a way of providing the needed improvements in medical service at the lowest possible cost.

All of the alternative proposals have been found wanting. The construction of a smaller facility or renovation of the existing hospital would result in only a nominal saving, if a saving at all, as compared with an entirely new 100-bed facility. But more important, the end result would still be a marginal facility that would not have the approval of the Army Surgeon General or the Assistant Secretary of Defense for Health and Environment. Sacrificing efficiency and the complete utilization of the latest medical technology would be false economy.

Twice in recent years, Congress has authorized this project, including current approvals by both the House and Senate in connection with the military construction authorization bill. This clearly demonstrates a legislative recognition of the necessity for a new West Point hospital.

I know the Army will now approach the committee's concerns with the same thoroughness and diligence that it has previously displayed in documenting the need for this facility. I trust there will yet be an opportunity to resolve these concerns as the other body prepares to consider the military construction appropriation.

One of the finest military institutions in the world is deserving of a first-rate hospital.

Mr. SIKES. Mr. Chairman, I yield 10 minutes to the distinguished resident commissioner of Puerto Rico (Mr. BENITEZ).

Mr. BENITEZ. Mr. Chairman, I rise once again, this time hopefully to help rectify a deplorable situation which affects the good name of the United States, the good name of those of us who in Puerto Rico defend the United States and identify ourselves with its basic values and perhaps more importantly to defend the right of the people of a very small island in Puerto Rico to live, work, and go about without the constant threat, danger and perturbation of bombardment.

I refer to the issue of Culebra. This is a very small Puerto Rican island on our eastern shore which for a number of years has been the subject of special discussion and debate here and throughout the Hemisphere. A week ago, we thought in Puerto Rico that the matter had been adjudicated finally. We felt that the action of the conferees of the House and the Senate on the military construction authorization, fiscal year 1974, the report of which we approved just 30 minutes ago, would forestall any additional delay. However, that report has been completely ignored in the appropriations bill now before us for our consideration.

Members of the Appropriations Committee have been surprised to discover that the military construction bill authorizes according to the recommendation of the conferees the necessary funds to settle the Culebra issue; but nonetheless no appropriation ensues in the bill now under consideration. Why?

In the conference report which we received half an hour ago it is stated specifically in section 204(a):

SEC. 204. (a) In order to facilitate the relocation of the ship-to-shore and other gun fire and bombing operations of the United States Navy from the island of Culebra, there is hereby authorized to be appropriated the sum of $12,000,000 for the construction and equipage of substitute facilities in support of such relocation.

This section continues, establishing a number of conditions and requirements to insure that the Navy will have full occasion and opportunity to protect the vital national interests that might be involved, making as a prerequisite to the disbursement of any appropriations, a mutually satisfactory agreement.

Under the circumstances which, I may say, motivated and required the appearance here on three separate occasions of the Governor of Puerto Rico to give assurances at different moments before Members of the other body, before the chairman of the Committee on Armed Services of the House, and afterward before the House conferees on the military construction authorization fiscal year 1974, full satisfaction was accorded to the conferees on both our willingness and even eagerness to meet all reasonable conditions required and presented. And then we, to our amazement, find that your committee's appropriation bill lacks any recommendation of funds for these purposes.

I would like, Mr. Chairman, to point out that three successive Secretaries of Defense, Secretary Laird, Secretary Richardson, and Secretary Schlesinger, reported publicly in answer to the request of Governors of the people of Puerto Rico, that the Navy operations at Culebra would be terminated no later than July 1, 1975.

I may say that this morning at breakfast, I had the opportunity to talk to Secretary Schlesinger and to express to the Secretary my amazement that the

Navy, having requested this course of action necessitating more funds apparently had made no such funding request—at least in a timely way—to the Committee on Appropriations. Mr. Schlesinger was, I am sure, surprised at this, and indicated to me that he would study the matter and help to rectify what he thought had been an oversight.

I wish to add that this pledge was first made to the former Governor of Puerto Rico, Governor Ferré, several times, and was used as an electoral commitment. Governor Ferré's pledge was negated 6 weeks thereafter by Secretary Laird.

But former Secretary Richardson promised to review the policy in his confirmation hearings after consulting several voluminous studies prepared by the Defense Department at the direction of Congress. He conducted extensive discussions with Navy officials and obtained personal assurances from the Government that a transfer of the operations from this small inhabited island of Culebra would not be impeded in any way, should it be made anywhere in the uninhabited islands of Puerto Rico.

Mr. Richardson made the commitment that was afterward echoed by Mr. Schlesinger.

Here we stand after 3 years of commitments concerning Culebra, with the dignity and welfare of our people profoundly involved with a final approval obtained from this House on the conference committee recommendations on the authorization bill and now we are to return home to be expected to say all this was in jest.

Mr. BADILLO. Mr. Chairman, will the gentleman yield?

Mr. BENITEZ. I yield to the gentleman from New York.

Mr. BADILLO. Mr. Chairman, I want to commend the distinguished Resident Commissioner of Puerto Rico on the statement. As he indicates, we have been talking about this issue for years. This is not a case merely of failing to have an appropriation. If there is no appropriation to follow the authorization, we are failing to keep a promise not only to the people of Puerto Rico but a promise that affects the credibility of the United States of America.

Mr. Chairman, I call upon the conferees to see to it when they go to the Senate that this matter is rectified and that appropriations are made for the relocation of the facilities.

Mr. BENITEZ. I thank the gentleman from New York.

Mr. LEGGETT. Mr. Chairman, will the gentleman yield?

Mr. BENITEZ. I yield to the gentleman from California.

Mr. LEGGETT. Mr. Chairman, I want to commend my friend, the gentleman from Puerto Rico, on the statement he has made. Certainly we visited together on the beach at Culebra and looked at the installations there and talked to the mayor.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIKES. Mr. Chairman, I yield 1 additional minute to the gentleman from Puerto Rico.

Mr. BENITEZ. I thank the gentleman for yielding.

I yield to the gentleman from California.

Mr. LEGGETT. Certainly this has been a matter where the gentleman has been very, very aggressive to try to fulfill the commitments of the three Secretaries of Defense that he mentioned, but we do have a problem where these funds were not requested at the outset by the Navy. We had inserted them in the Senate in the authorization bill. We later had, through the gentleman's aggressiveness, I guess, the conference committee approve the item, so we have the matter authorized. But still there is nothing before the Committee on Appropriations, I guess, to date. I would certainly hope that the Committee on Appropriations would consider the matter and that this has come about in an irregular way.

If the Senate chooses to act on this matter and be a little more aggressive than we have, I certainly hope that we can favor the Secretary's recommendations in a positive way in conference.

Mr. Chairman, I should like to direct the question to the chairman of the subcommittee.

The CHAIRMAN. The time of the gentleman has expired.

Mr. SIKES. Mr. Chairman, I yield myself 1 minute. I had not intended to engage in this discussion at this time. The fact is that the committee has had no request for funds. The request for funding went to the Senate after we had completed our work, and it has not yet come to this committee.

There is another side to this case which I expect to discuss in detail if an amendment is offered. At the moment let me say that if the matter is taken up and considered favorably in the Senate, we will look at it carefully with an open mind. We are not prejudiced against the project.

Mr. LEGGETT. I thank the gentleman.

Mr. SIKES. Mr. Chairman, I yield 1 additional minute to the gentleman from Puerto Rico.

Mr. BENITEZ. I thank the gentleman.

I wish to say that I appreciate and understand the explanations given by the distinguished chairman of the subcommittee and wish to say that I trust the Members understand perfectly well that our interest is not only the interest of the people of Culebra, but this House's common interest in making clear to everyone in Puerto Rico and outside of Puerto Rico that these commitments pertaining to human beings will be observed. I trust that this will be the case, and I would continue to pledge my support to the processes that will make it possible.

Mr. TALCOTT. Mr. Chairman, we have no further request for time.

Mr. SIKES. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Maryland (Mr. LONG), a member of the subcommittee.

Mr. LONG of Maryland. Mr. Chairman, as a member of the committee I support this bill.

The bill does represent a substantial cut below the authorization. The authorization, it is fair to say, cut quite substantially below the budget request, with the net result that we do have a very substantial cut here below the budget request. While this is a bigger bill than last year, it is a bigger bill roughly by the factor of inflation only.

I wish we could have cut more. I have been one of those who have been fighting for years to cut the military spending particularly after the war in Vietnam. But, let us face it, the cold war is heating up. I have not always been convinced by the warnings of the hawks and I am still not entirely, but it is better to be safe than to be sorry.

The sums of money involved in what we are doing are relatively small in relation to the tremendous dangers this country faces in the perilous world in which we live today.

There are some problems of military construction I have felt some concern about. I do think the military is often asking us for new buildings or is often leasing when it could be using old buildings which are perfectly serviceable buildings. There is a vacant base in my district, Fort Holabird, which the Army has appraised as having buildings good until 1994. Although they are not beautiful they are serviceable. It is a great mistake to walk away and leave that money there.

In connection with some of the overseas bases I have had some concern but we have found ourselves in something of a dilemma. A great deal of our overseas housing is in very bad shape, yet we are not replacing it now because it is not clear how long we are going to be at those bases.

I think we should have taken more into account the lack of combat readiness of certain National Guard units. Some of them are in a C–4 category. They are just not ready and the buildings are not going to make them ready. Combat readiness depends on other factors than buildings.

I have some concern about the construction for Trident because we are putting all our eggs in one basket at one base in one place in Bangor, Wash. A single bomb could knock out a very large part of the Trident. Should we be putting so much investment in one spot.

I have some concern about emergency funds. But the sums are not great and this is a matter on which reasonable people can come to some sort of agreement.

On the matter of Culebra I would like to point out to the gentleman from Puerto Rico that no one can commit the Congress of the United States to move a base from anywhere. Congress is not at the beck and call of the Secretary of Defense or any other administrative agency that wants to tell some area that we plan to move out.

I hope Congress and these other people keep that in mind. There are other things that bother me, but nevertheless, I think this is a reasonably prudent bill.

I want to commend Congressman SIKES, who has been a very distinguished chairman. He is always tolerant and understanding and listens to the views of everybody on the committee.

I think this is a reasonably prudent bill, which is a reasonable compromise, and I ask my colleagues to vote for it.

Mr. SIKES. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, I would

like to ask the chairman about one item in the military construction bill providing for funds for the construction of one facility in my particular district, a commissary at Bergstrom Air Force Base. We have been waiting for the authorization of this project for over 30 years. Finally, after waiting this period of years, it was authorized. I am advised that the bill before us now does not provide the funds in this instance. Is that correct?

Mr. SIKES. Yes. I will be glad to respond to the distinguished gentleman. I commend him for his interest in his own district and the military installations there.

The facility which the gentleman refers to, the commissary, is an authorized item. It is one of several commissaries deleted by the Appropriations Committee. The committee went rather fully into this subject, and the majority of the members of the committee felt that the Department of Defense should take a new look at commissaries in general. It is costing the Government nearly $300 million a year in personnel costs to operate the commissaries. They do not pay any taxes. Their overhead is low. They obtain land, and in many cases facilities, without charge. A surcharge is added to the commissary prices to pay for overhead expenses. In many cases this has been used to construct new commissaries or to rehabilitate existing ones.

The majority of the members of the committee felt that this procedure might be a rational way for the construction of this and other commissaries to be funded.

We are not prejudiced against commissaries. We accept the fact they are important to the military programs. The committee feels however, that the need may not be as great as it was in prior years when the military pay scale was very low and when there were very few good shopping facilities and food stores in the vicinity of most bases. That picture has changed. The committee felt that the Department of Defense should take a new look at the commissary structure. That does not mean that we are asking that the commissaries be eliminated, but that consideration be given to having commissaries carry more of the costs which are now borne by the taxpayers.

Mr. PICKLE. I believe the gentleman would understand that this action catches many Members by surprise, because we had assumed that once the authorization was in this year and without any notice of difficulty, that it would not be taken out. Will this matter now go to conference?

Mr. SIKES. This bill now goes to the Senate and, of course, if the Senate restores the commissaries, including that of the distinguished gentleman, I assure the gentleman that I as one member of the subcommittee will view the matter with an open mind. I am not prejudiced against any of the commissaries.

Mr. PICKLE. I appreciate that very much. It will be a harsh act to deprive that base the funds we have been waiting for during these 30 years.

Mr. SIKES. Mr. Chairman, I have no further requests for time.

Mr. TALCOTT. Mr. Chairman, with respect to the Atlantic Fleet Weapons Range and its activity on the property owned and developed by the U.S. Navy on the island of Culebra, the one criterion by which this activity should be judged—the one question that we should put above all others: "Is this activity essential to the defense requirements of the United States?"

We cannot seek the answer to this question from unqualified critics, self-serving interests, inconsolable instigators, political opportunitists, and kibitzers from afar.

But seeking an honest answer to the question: "Is this activity essential to the defense of my country?" ought to be the overriding consideration for every patriotic American, whether he is wearing the uniform of this country, whether he has the honor and responsibility of high public office, whether he is selling newspapers in San Juan or real estate from New York or beer to the white hats in the little town of Dewey (Culebra).

Every American is expected to make needful sacrifices for the security of his country, certainly when it is a matter of his convenience compared to the preparedness of the forces first committed to lay down their lives in a challenge to our national interests.

The good citizens of Puerto Rico would be deeply insulted—and rightly so—to have it suggested that they would be less willing than their fellow citizens of any other part of these United States to bear their share of the burden of eternal vigilance.

Communities across the country daily endure a much greater burden of annoyance and inconvenience for the sake of their military neighbors—without nearly the perfect record of safety which Culebra can claim.

So we go back to the basic question—disregarding for the moment even the arguments of the dollar cost to our taxpayers or the convenience of the naval services—"Is this activity essential to the defense requirements of these United States?"

And I refer you to the testimony of Rear Adm. A. R. Marschall, CEC, USN, Commander, Naval Facilities Engineering Command, on page 907 of the hearings on this bill—and let only those better qualified contradict him—"Is this range on Culebra essential?"

Admiral Marschall's answer:

Most essential, Sir.

Mr. RONCALIO of Wyoming. Mr. Chairman, I would like to take this opportunity to express my thanks to Chairman ROBERT SIKES of the Subcommittee on Military Construction Appropriations and the other members of the subcommittee for recommending favorable action on the construction of a composite medical facility at F. E. Warren Air Force Base in Cheyenne, Wyo.

As noted in the hearing record on the legislation, Warren's medical facilities were built in 1887 and have outlived their usefulness as a base hospital. I heartily agree with the subcommittee that it is time for newer facilities to meet the new demands of modern medical science.

I might point out that as well as serving the more than 4,400 officers, enlisted men, and civilians at the base, this facility will provide medical treatment to the thousands of retired servicemen living in the State of Wyoming. I thank the subcommittee and its chairman for not only the men serving at Warren but for the people of Wyoming.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

Mr. SIKES (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. BARRETT

Mr. BARRETT. Mr. Chairman, I offer an amendment.

(The portion of the bill to which the amendment refers is as follows:)

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, and facilities for the Navy as currently authorized in military public works or military construction Acts, and in sections 2673 and 2675 of title 10, United States Code, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $587,641,000, to remain available until expended.

The Clerk read as follows:

Amendment offered by Mr. BARRETT: Page 2, line 12, strike the figure "$587,641,000" and insert in lieu thereof "$582,437,000".

Mr. BARRETT. Mr. Chairman, this is an amendment to reduce the appropriations of funds for Navy construction by the sum of $5.204 million, for the construction of a building at Albany, Ga., which is intended to house the administrative functions of the Marine Corps supply activity now located in Philadelphia, Pa.

Mr. Chairman, many of us from Pennsylvania have had extensive discussions with the military—the DOD, Navy, and Marine Corps—concerning this proposal. We are firmly convinced that it is ill-conceived and totally unwarranted. Further, it is a needless expenditure of funds.

The Marine Corps supply activity serves as the single inventory control point for the corps in support of the operating forces and the supporting establishments. It is also the sole activity providing provisioning to support the introduction of all new or modified end items of equipment and systems, cataloging of all items of supply including the preparation of all Marine Corps stock lists and central computation and validation of prepositioned war reserve requirements, including the forced issue in support of contingency withdrawal plans.

This proposal was first presented in April of this year to the employees. It was explained at that time, that the proposed relocation would ultimately result in an annual savings to the Federal Government of $2.6 million—primarily through the reduction of maintenance cost and to a lesser degree through the reduction of overall personnel cost. A critical scrutiny of this proposal, and the ra-

tionale which supports it, refutes the reliability of these anticipated economies.

The fact sheet prepared by the Marine Corps states that there are no facilities available at Albany, Ga., for this function and the initial estimate of construction is $5.2 million. It was noted that the age of the Philadelphia buildings had resulted in increasing annual maintenance costs and programmed requirements of $4,924,000 were currently identified. Thus it was argued, the continued maintenance cost and out-year military requirements exceeded 50 percent of the cost to construct a new administrative building at Albany, Ga. In fact, the total funds expended in fiscal year 1972 for the maintenance and repair of the present facility in Philadelphia was only $357,703.35. The programed requirements of almost $5 million are based almost exclusively on fiscal year 1968 estimate of the cost of complete central air conditioning of the Philadelphia complex. This plan was never implemented since 40 percent of the administrative areas of the command are effectively air conditioned by individual air conditioning units. Actual time lost in administrative shutdowns due to excessive heat has been negligible. Specifically a portion of the workforce has lost a total of 5 hours over the last 6 years ending June of this year.

Mr. Chairman, the initial cost estimate has been set at $5.2 million by the military. We know what these initial estimates have been in the past. They have amounted to the camel getting his nose under the corner of the tent. These estimates are already several years old and we know that the costs of construction have increased greatly in the past several years. There is no doubt in my mind that once they get started on this building they will be back asking for additional funds.

The Marine Corps has expressed concern over the availability of family housing units for the marines in Philadelphia. It should be pointed out however, that less than 6 years ago over 800 marines and their families were adequately housed and there are currently less than 200 marines, eligible for housing, onboard. I doubt that serious problems of military housing now exist.

The Marine Corps fact sheet frequently refers to the proposed relocation as a "consolidation of functions." The fact is that the proposed move does not in any way involve a change to the current mission of the activity. There is no change or modification planned for any functions now performed in Philadelphia and thus there is no planned major modification to the number and type of occupational specialists who now accomplish the assigned mission. This in itself is significant. An inventory control point is responsible to perform a variety of duties in the management of equipment. Most of these responsibilities require a professional expertise greater than that of a purely clerical nature. The Marine Corps inventory control point is unique in that it manages all commodity areas; electronic, missile, automotive, engineer, ordnance, general property and clothing. Highly qualified technical people are required to analyze the design of a radar system or truck or refrigerator or missile to determine which repair parts should be acquired and the proper quantities for continued support. Technical people are required to analyze engineering drawings for these repair parts in order to properly catalog them. These are but a few of the functions performed by the center. The opinion of those who have visited Albany, Ga., on other business for the Marine Corps, there is a warehouse located there, is generally that the area will not provide for a future labor market of the type required. In fact, inquiry has disclosed that there are currently considerable vacancies at Albany for technical positions which they have not been able to fill from the local labor market.

Mr. Chairman, technically capable people are vital to the function of this military facility. The Marine Corps itself states that out of the present 1034 civilian positions in Philadelphia only 184 are to be abolished by the proposed move to Georgia and these are fringe jobs not related to the basic function of the inventory control operation.

They propose to move 984 positions. The Corps itself estimates that of this number from 250 to 350 personnel are expected to relocate. The employee group indicates that this is an optimistically high figure. The large minority complement in Philadelphia will probably not relocate because of area and the higher housing costs compared to their present situation.

It has been admitted that the present Albany, Ga., labor market is unable to supply the needed personnel to fill technical positions presently vacant in the area. The Marine Corps is unable to respond to the question and problem which would result if this move takes place—namely, where would the technical personnel come from?

In conclusion, Mr. Chairman, I submit that this proposal by the Marine Corps is not a consolidation in any sense of the word and will not save the taxpayers any money. It is a relocation which may well jeopardize the efficient operation and functioning of this activity and will surely cost the taxpayers of this country additional dollars in taxes.

I urge my colleagues to support my amendment.

Mr. EILBERG. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the Marine Corps plan to move the supply activity now located in Philadelphia to Albany is an ill-conceived, poorly planned operation.

I believe the decision was made simply to show some activity on the part of the Marine Corps in response to public demands for a reduction in military spending. It is also my opinion that the cost-savings figures presented in support of this plan do not represent the true cost to the taxpayers of this project.

The Marine Corps states that it will have to construct a completely new facility in Albany, Ga., for $5.2 million. It justifies this expense by stating that the annual maintenance and programed requirements of the present facility in Philadelphia are $4.9 million.

However, the fact is that in the last fiscal year the maintenance and repair costs to the Philadelphia plant were only $375,703. The remaining $4.55 million would be for the proposed air-conditioning of the entire facility which was first suggested in 1968. This plan was never implemented and 40 percent of the areas which should be air-conditioned are already serviced by individual air-conditioning units and estimates for taking care of the remaining areas are considerably lower than the original $4.9 million.

Additionally, Mr. Chairman, the Marine Corps has not figured into its cost projections the effect of this move on the economy of the city of Philadelphia and the surrounding suburbs.

The loss in much needed revenue to our public transportation system which serves the Marine facility will eventually have to be made up by other Federal agencies along with the reduction in payments to our school systems now made through impacted aid grants.

As I said before, this is an ill-conceived, poorly planned decision and I urge my colleagues to support Congressman BARRETT'S amendment to strike funds for this project from the military appropriations bill.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, we have heard something here today about saving money, and I can tell the Members that one of the best ways by which we can save $5.2 million plus is to adopt the amendment offered by the gentleman from Pennsylvania (Mr. BARRETT).

The Marine Corps supply activity is located at Broad and Washington Streets in Philadelphia. It is in no part of my district. However, I visited there, and they have substantial buildings, with a very low maintenance cost. I do not understand why they want to air-condition parts of the building in which only uniforms and things of that nature will be stored. The fact of the matter is that the building is now 40 percent air-conditioned.

Now, as far as the Broad and Washington Street location is concerned, the railroads run right into the Marine Corps supply activity, the truck terminals are right there, and 14 blocks away there is the Delaware River, one of the biggest ports in the country. So if the Marine Corps wants to ship anything any place in the world, they can.

Mr. Chairman, the irony of this whole thing is that just about 12 blocks away from this spot there is the Tunn Tavern, where it is reported the Marine Corps was founded. And now, after spending substantial sums of money on modernizing these buildings in Philadelphia, they want to turn around and spend $5.2 million some place else for new buildings.

I can tell the Members that this $5.2 million figure was developed almost a year ago, and since that time building expenses have increased by some 30 percent. So if we want to save some money, without taking anything away from anybody, and keeping an installation in a very strategic location where all forms of transportation are readily available to it, we should adopt the amendment offered by the gentleman from Pennsyl-

vania (Mr. BARRETT) and keep the Marine Corps supply activity in Philadelphia.

Mr. SIKES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, first let me state that I rise reluctantly to oppose the amendment of my distinguished friend, the gentleman from Pennsylvania. Mr. BARRETT is a distinguished and able Member, a very kindly gentleman, and a warm personal friend. I know that this is a matter of great concern to him. I applaud him for the zeal with which he fights for the interests of his own district.

Now I must give to the House the justification submitted by the Department of the Navy in support of the proposed transfer of supply activities from Philadelphia to Albany, Ga. The subcommittee went carefully and fully into the proposal. It is the Navy's position that by this move the Marine Corps will be able to effect significant personnel strength reductions and cost savings.

By this move the Marine Corps will reduce 184 civilian and 50 military personnel commencing in fiscal year 1976, when the move will take place, the Government will experience $1.2 million in savings because of these personnel cuts. Thereafter the annual personnel savings will amount to $2.6 million each year.

Mr. Chairman, the old Marine Corps facility in Philadelphia consists of buildings which date back to 1908, which were not designed for their present use and needs. By this transfer we shall avoid $4.9 million in improvement costs which are absolutely necessary to the Philadelphia installation.

The committee supports the move for these reasons:

Colocation of the inventory control and data processing installations and the materiel which is at Albany.

The naval air station at Albany is closing at the end of this year. We can use facilities and quarters there for the incoming people. The individual marine can live on post, not subsist out on the Philadelphia community as he must now.

There is a very large and relatively new facility now in existence in Albany. This is a proposal to consolidate a small facility with a larger one. Consolidation of the two facilities is realistic. Albany can accommodate the move. The Navy asks for one administration building to be constructed at Albany which costs $5.2 million.

I urge the amendment of the gentleman from Pennsylvania be defeated.

Mr. BARRETT. Will the gentleman yield?

Mr. SIKES. I yield to the gentleman from Pennsylvania (Mr. BARRETT).

Mr. BARRETT. I would like to point out to the gentleman that we have given long study to this relocation with the Department of Defense, the Navy, and the Marine Corps and have searched out every possible facet as to its maintenance and durability. The gentleman spoke very kindly about the need of substantial maintenance in another 2 years. I would like to inform the gentleman that there will be no need of substantial maintenance to the Marine Corps building in Philadelphia for the next 15 or 20 years. It is a very fine structure; the exterior and interior architecture are comparable to that of any building. I just cannot see why the Government wants to spend $5.2 million at this time when we are clamoring for economy.

Mr. SIKES. If I may respond, this building was constructed in 1908 and Navy witnesses said that substantial renovation will be required if it will continue to be used. I am giving you the information that was given to my committee in support of the move. They estimate these costs would be more than $4 million, which is very close to the cost of the new facility at Albany. I am sure their analysis of the cost was made carefully and that they are considered accurate.

Mr. MATHIS of Georgia. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, it also gives me a great deal of pain to rise in opposition to the amendment offered by my friend from Philadelphia, who is an eloquent spokesman for his district and State, but the facts outlined by the distinguished chairman of the subcommittee speak for themselves.

There will be substantial savings effected by this move from Philadelphia to Albany, Ga. The chairman touched on those very briefly and effectively, I think.

The chairman mentions and I think I should emphasize that there are at the present time 630 Capehart housing units that are among the best available anywhere which will be available immediately for the military people being transferred to Albany, Ga.

Mr. BARRETT. Mr. Chairman, will the gentleman yield?

Mr. MATHIS of Georgia. I will be delighted to yield to the gentleman from Pennsylvania.

Mr. BARRETT. Mr. Chairman, I would state to the gentleman from Georgia that we have made a very, very thorough check on this, and our findings indicate to us that they do not have the personnel involved who would be capable of performing the services comparable to what they have been doing here in Philadelphia for the last close to 150 years.

Mr. MATHIS of Georgia. May I say to the gentleman from Pennsylvania, with all due respect, that I think if the gentleman would check that he would certainly find personnel in Georgia who are just as capable as personnel in Philadelphia, Pa.

I do not want to boil this down to a fight between districts, because I have too much respect for my friend, the gentleman from Pennsylvania.

Let me also say to my friend that I am losing a military installation in my district in Albany, Ga., which is being implemented, and I may say that this gives me a great deal of pain to lose that facility because there are a number of military personnel involved in it. But I must say that the bulk of the activities are being transferred to Key West, and I do not feel that it is my responsibility to raise an issue, or to try to block the move of the Navy from Albany, Ga., to Key West.

So, as I say, I do not want to break this down as to an issue concerning the capabilities of the workers in Georgia versus the workers in Pennsylvania.

I simply think that the committee has done its homework, the Marine Corps has done its homework, and I would urge the defeat of the amendment.

Mr. BARRETT. Mr. Chairman, if the gentleman would yield further, I am sure the gentleman from Georgia would certainly defend the relocation of an installation where there was going to be a savings to the taxpayers of $5.2 million. I believe that the gentleman from Georgia is a good Congressman, and I have great respect for the gentleman, but where the gentleman could save $5 million the gentleman would do it. And I am quite sure we can save the taxpayers $5.2 million.

Mr. MATHIS of Georgia. I would say to the distinguished gentleman from Philadelphia that we have been told that we are going to effect a savings of $2.6 million annually based solely on the personnel, and it would not take very long at annual savings of $2.6 million to make up the $5.2 million of new construction authorization.

Again I urge defeat of the amendment.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. Mr. Chairman, I would like to call to the attention of the chairman of the subcommittee that the gentleman has been furnished erroneous information by the Navy. In a similar move we were told it would cost $28 million, and when we informed them they left out $6 million, they promptly reduced the cost to $20.1 million. Anyone knows that one cannot build a building for $5.2 million and at the same time save $2.6 million on personnel.

It is quite true that this building was built in 1908, but the Members should see the construction of that building, the all masonry construction. It was built to last for at least 100 years, and substantial sums have already been spent in the renovation of this building in Philadelphia.

As far as savings are concerned, they are entirely fictitious, because they are not going to save $2.6 million in salaries over this period of time. In fact, with the enlisted personnel that we have there it would not permit anywhere near a savings of $2.6 million.

The gentleman has given us the Navy case. I must say to my distinguished colleague, the gentleman from Florida (Mr. SIKES) that we questioned the Navy, and they have not been able to substantiate their figures. And in the other similar move which I previously mentioned, they came down $8 million when they should have been going up $6 million.

So, all that I can say is that if we want

to save money and use what we have already now in the facility, that is being used very, very efficiently, then do not waste the money on building new buildings some place else, even if you want to build them in my own district in Pennsylvania, which is not Philadelphia.

Let us use what we have now and let us stop throwing our money away on military programs where it can be used more helpfully in other ways by the military or by other agencies.

Mr. Chairman, I yield back the balance of my time.

Mr. TALCOTT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I share the respect that the chairman of the committee indicated for the gentleman from Philadelphia and those who are interested in the Philadelphia installation. I should just like to say that the reason our subcommittee and our full committee made this proposal was to save money, to consolidate facilities, to improve working and living conditions, and to permit better management of the Marine Supply Services. We were trying to consolidate facilities wherever we could and to do it in the most efficient manner. We were told that the renovation and modernization at Philadelphia was simply not economical or practical. At least, that was the information given to us. We were told that this inventory control function would be more effective and less costly at Albany. There are existing data processing and other supporting functions there that are necessary to the materiel and supply functions and which will allow considerable reductions in overhead costs.

We were only trying to save money and improve the services.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. TALCOTT. I yield to the gentleman from Iowa.

Mr. GROSS. As a compromise, why not move the installation out to Iowa? We do not have any military installations and we will not feed them grits and fat pork.

Mr. TALCOTT. I think the gentleman from Iowa may have a good idea.

Mr. WILLIAMS. Mr. Chairman, will the gentleman yield?

Mr. TALCOTT. I yield to the gentleman from Pennsylvania.

Mr. WILLIAMS. I thank the gentleman for yielding.

In answer to the question that was asked about the necessary personnel, when the new Clinton Industries Shipyards were being built in Mississippi or Louisiana—whichever they were—where do the Members think they were recruiting their personnel? At the Philadelphia Naval Shipyard, at the Sun Shipbuilding Co., and in the areas around Philadelphia. We have those highly skilled personnel there right now. Let us keep them there, and let us save at least $8 million by adopting this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. BARRETT).

The question was taken; and on a division (demanded by Mr. BARRETT) there were—ayes 21, noes 54.

Mr. BARRETT. Mr. Chairman, I demand a recorded vote.

Mr. Chairman, I withdraw my request for a recorded vote and I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

One hundred eight Members are present, a quorum.

Mr. BARRETT. Mr. Chairman, surely I can make a request for a recorded vote again.

Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

Mr. GROSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to ask the chairman of the subcommittee a question or two concerning this bill. On the face of it, it appears to call for $2,609,000,000 which is an increase of approximately $286 million over expenditures for military construction in 1973, the last fiscal year. What precisely causes this increase over last year, this increase of $286 million?

Mr. SIKES. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Florida.

Mr. SIKES. Mr. Chairman, a great deal of the additional cost of this bill is the result of increased family housing operating and maintenance costs and additional costs of construction. Inflation has entered very strongly into all the construction programs. Then there are several new programs such as Trident for which construction funds are provided in the amount of $112 million and an increase of $130 million for Army bachelor quarters which amount for the rest of the increase. We feel that the increase over last year is a modest one.

I think what is of the greatest significance is that this bill as a result of the action of the authorizing committees and the House Appropriation Committees is cut $335 million below the total request of $2,944 million. That is a very significant reduction and I believe it is all that can be cut.

Mr. GROSS. Can the gentleman give us a figure as to the added cost of this bill in terms of the devaluation of the dollar?

Mr. SIKES. I think the gentleman can figure that as well as I can but it has had its effect and of course it means everything is costing more.

Mr. GROSS. I understand that but I just wondered how much more was added to this bill by virtue of devaluation.

Mr. SIKES. With the exception of two or three small items added in the authorizing bill, no funds were added to the bill by the committee as a result of devaluation.

Mr. GROSS. It is mentioned in the report on the bill that devaluation has added to the cost.

Mr. SIKES. Devaluation has.

Mr. GROSS. But there is no figure given.

Mr. SIKES. Devaluation has added to the cost but no substantial amount of money was added because of that.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Massachusetts.

Mr. BURKE of Massachusetts. I might point out to the gentle man from Iowa he should ask where are the savings that were made as a result of all those closings in Massachusetts and Rhode Island? They were cited as saving hundreds of millions of dollars in their claims, but in looking over the budget for the next year I see they are coming in and asking for millions of dollars more for housing down in Norfolk that they have to build to provide housing for personnel. Every time they close an installation the cost goes up.

Mr. GROSS. The gentleman has raised an excellent question. I fail to see anywhere any result by way of savings from the closings of bases and other installations.

Mr. SIKES. If the gentleman will yield further, I will again call to his attention figures which were used in my discussion earlier, in which I did discuss the base closure picture and the amount of savings which the Government anticipates will result. It is anticipated that the savings will be $3.5 bililon over the next 10 years. These actions would result in the elimination of 42,800 military and civilian positions.

Obviously, there is not going to be a great deal of savings in the first year. This is the first year. It may even cost more in the first year because of the relocation of personnel and the cost of closing bases. But, in the next 10 years the Department will save $3.5 billion.

Mr. GROSS. Apparently inflation is feeding on itself, as evidenced by this bill. If inflation continues I would hesitate to predict whether there would be any savings on the closing of these bases in the next 10 years.

Mr. SIKES. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House, with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. ANNUNZIO, chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11459) making appropriations for military construction for the Department of Defense for the fiscal year ending June 30, 1974, and for other purposes, had directed him to report the bill back to the House, with the recommendation that the bill do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. SCHERLE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 29, not voting 38, as follows:

[Roll No. 585]

YEAS—366

Abdnor	Daniel, Robert W., Jr.	Harsha
Adams	Daniels, Dominick V.	Hastings
Addabbo	Danielson	Hawkins
Alexander	Davis, Ga.	Hays
Anderson, Calif.	Davis, S.C.	Hébert
Andrews, N.C.	de la Garza	Heinz
Andrews, N. Dak.	Delaney	Helstoski
Annunzio	Dellenback	Henderson
Archer	Denholm	Hicks
Arends	Dennis	Hillis
Armstrong	Dent	Hinshaw
Ashbrook	Derwinski	Hogan
Ashley	Devine	Holifield
Aspin	Dickinson	Holt
Bafalis	Diggs	Horton
Baker	Donohue	Hosmer
Bauman	Dorn	Howard
Beard	Downing	Huber
Bell	Dulski	Hudnut
Bennett	Duncan	Hungate
Bergland	du Pont	Hutchinson
Bevill	Eckhardt	Ichord
Biaggi	Edwards, Ala.	Jarman
Biester	Erlenborn	Johnson, Calif.
Boggs	Esch	Johnson, Colo.
Boland	Eshleman	Johnson, Pa.
Bolling	Evans, Colo.	Jones, Ala.
Bowen	Evins, Tenn.	Jones, N.C.
Brademas	Fascell	Jones, Okla.
Bray	Findley	Jones, Tenn.
Breaux	Fish	Jordan
Breckinridge	Fisher	Karth
Brinkley	Flood	Kazen
Brooks	Flowers	Kemp
Broomfield	Flynt	Ketchum
Brotzman	Foley	King
Brown, Calif.	Ford, Gerald R.	Koch
Brown, Mich.	Ford, William D.	Kuykendall
Broyhill, N.C.	Forsythe	Kyros
Broyhill, Va.	Fountain	Landgrebe
Burgener	Frelinghuysen	Landrum
Burke, Fla.	Frenzel	Leggett
Burke, Mass.	Frey	Lehman
Burleson, Tex.	Froehlich	Lent
Burlison, Mo.	Fulton	Litton
Burton	Fuqua	Long, La.
Butler	Gaydos	Long, Md.
Byron	Gettys	Lott
Camp	Giaimo	Lujan
Carey, N.Y.	Gibbons	McClory
Carney, Ohio	Gilman	McCloskey
Carter	Ginn	McCollister
Casey, Tex.	Goldwater	McCormack
Cederberg	Gonzalez	McDade
Chappell	Goodling	McEwen
Clark	Grasso	McFall
Clausen, Don H.	Gray	McKay
Clawson, Del	Green, Oreg.	McKinney
Cleveland	Griffiths	McSpadden
Cochran	Grover	Macdonald
Cohen	Gubser	Madden
Collier	Gude	Madigan
Collins, Tex.	Gunter	Mahon
Conable	Guyer	Mailliard
Conlan	Haley	Mallary
Conte	Hamilton	Mann
Corman	Hammer-schmidt	Maraziti
Cotter	Hanley	Martin, Nebr.
Coughlin	Hanna	Martin, N.C.
Crane	Hanrahan	Mathias, Calif.
Cronin	Hansen, Idaho	Mathis, Ga.
Culver	Hansen, Wash.	Matsunaga
Daniel, Dan	Harrington	Mayne
	Hechler, W. Va.	Mazzoli
	Heckler, Mass.	Meeds
	Holtzman	Melcher
	Kastenmeier	Metcalfe
	Mitchell, Md.	Mezvinsky
	Moakley	Michel
	Nix	Milford
	Rangel	Miller
	Reuss	Minish
	Rhodes	Mink
	Riegle	Minshall, Ohio
	Rinaldo	Mitchell, N.Y.
	Robinson, Va.	Mizell
	Robison, N.Y.	Mollohan
	Rodino	Montgomery
	Roe	Moorhead, Calif.
	Rogers	Moorhead, Pa.
	Roncalio, Wyo.	Morgan
	Roncallo, N.Y.	Mosher
	Rooney, Pa.	Moss
	Rose	Murphy, Ill.
	Roush	Myers
	Rousselot	Natcher
	Roy	Nedzi
	Roybal	Nelsen
	Runnels	Nichols
	Ruppe	Obey
	Ruth	O'Hara
	Ryan	O'Neill
	Sandman	Owens
	Sarasin	Parris
	Sarbanes	Passman
	Satterfield	Patten
	Scherle	Pepper
	Schneebeli	Perkins
	Seiberling	Pettis
	Shipley	Peyser
	Shoup	Pickle
	Shriver	Pike
	Shuster	Poage
	Sikes	Podell
	Sisk	Powell, Ohio
	Slack	Preyer
	Smith, Iowa	Price, Ill.
	Smith, N.Y.	Price, Tex.
	Snyder	Pritchard
	Staggers	Quie
	Stanton, J. William	Quillen
	Stanton, James V.	Railsback
	Steed	Randall
	Steele	Rarick
	Steelman	Rees
	Steiger, Ariz.	Regula
	Steiger, Wis.	Stubblefield
	Stephens	Sullivan
	Stokes	Symington
	Stratton	Talcott
	Stuckey	Taylor, Mo.
	Studds	Taylor, N.C.
	Sullivan	Teague, Calif.
	Symington	Thomson, Wis.
	Symms	Thone
	Talcott	Thornton
	Taylor, Mo.	Towell, Nev.
	Taylor, N.C.	Treen
	Teague, Calif.	Ullman
	Thomson, Wis.	Van Deerlin
	Thone	Vander Jagt
	Thornton	Vanik
	Towell, Nev.	Veysey
	Treen	Vigorito
	Ullman	Walsh
	Van Deerlin	Wampler
	Vander Jagt	Ware
	Vanik	Whalen
	Veysey	White
	Vigorito	Whitehurst
	Walsh	Whitten
	Wampler	Widnall
	Ware	Wiggins
	Whalen	Williams
	White	Wilson, Bob
	Whitehurst	Wilson, Charles H., Calif.
	Whitten	Wilson, Charles, Tex.
	Widnall	Winn
	Wiggins	Wolff
	Williams	Wright
	Wilson, Bob	Wyatt
	Wilson, Charles H., Calif.	Wydler
	Wilson, Charles, Tex.	Wylie
	Winn	Wyman
	Wolff	Yates
	Wright	Yatron
	Wyatt	Young, Alaska
	Wydler	Young, Fla.
	Wylie	Young, Ill.
	Wyman	Young, Tex.
	Yates	Zablocki
	Yatron	Zion
	Young, Alaska	
	Young, Fla.	
	Young, Ill.	
	Young, Tex.	
	Zablocki	
	Zion	

NAYS—29

Badillo	Gross	Sebelius
Barrett	Harrington	Skubitz
Bingham	Hechler, W. Va.	Stark
Chisholm	Heckler, Mass.	Studds
Clay	Holtzman	Symms
Conyers	Kastenmeier	Thompson, N.J.
Drinan	Mitchell, Md.	Waldie
Edwards, Calif.	Moakley	Young, Ga.
Eilberg	Nix	Zwach
Green, Pa.	Rangel	

NOT VOTING—38

Abzug	Dingell	Rooney, N.Y.
Anderson, Ill.	Fraser	Rosenthal
Blackburn	Harvey	Rostenkowski
Blatnik	Hunt	St Germain
Brasco	Keating	Schroeder
Brown, Ohio	Kluczynski	Spence
Buchanan	Latta	Stuckey
Burke, Calif.	Mills, Ark.	Teague, Tex.
Chamberlain	Murphy, N.Y.	Tiernan
Clancy	O'Brien	Udall
Collins, Ill.	Patman	Waggonner
Davis, Wis.	Reid	Young, S.C.
Dellums	Roberts	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Stuckey.
Mr. Brasco with Mr. Young of South Carolina.
Mr. Blatnik with Mr. Anderson of Illinois.
Mr. Kluczynski with Mr. Davis of Wisconsin.
Mr. St Germain with Mr. Brown of Ohio.
Mr. Rostenkowski with Mr. Blackburn.
Mr. Mills of Arkansas with Mr. O'Brien.
Mrs. Burke of California with Mr. Reid.
Mr. Dellums with Ms. Abzug.
Mrs. Collins of Illinois with Mr. Rosenthal.
Mr. Dingell with Mr. Patman.
Mrs. Schroeder with Mr. Fraser.
Mr. Hunt with Mr. Chamberlain.
Mr. Spence with Mr. Clancy.
Mr. Waggonner with Mr. Buchanan.
Mr. Murphy of New York with Mr. Harvey.
Mr. Teague of Texas with Mr. Keating.
Mr. Tiernan with Mr. Latta.
Mr. Roberts with Mr. Udall.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIKES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

NUTRITION FOR THE ELDERLY

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, on September 26, together with the distinguished gentleman from Florida (Mr. PEPPER) introduced H.R. 10551, a bill to extend the nutrition program for the Elderly Act for 3 years.

Evidence of the overwhelming bipartisan support enjoyed by this program, Mr. Speaker, is that since that date 137 Members of the House, on both sides of the aisle, have joined the gentleman from Florida and me in cosponsoring this legislation.

Mr. Speaker, the nutrition program for the elderly began as a demonstration program under the Older Americans Act of 1965, and last year it evolved into an ongoing service when Congress overwhelmingly approved the nutrition program for the Elderly Act as a separate title of the Older Americans Act.

Because of several presidential vetoes of Labor-HEW appropriations bill, which included funds for the nutrition program, the act is only now beginning to be implemented.

But the program, Mr. Speaker, is not a partisan issue. For Congress has demonstrated its support for the nutrition program by appropriating funds for it, and the President, as well, has evidenced his backing by requesting $100 million to implement nutrition programs across the land.

Mr. Speaker, when this program is fully implemented, nutrition centers will be able to provide one hot, nutritious meal a day, 5 days a week, for thousands of Americans aged 60 and over in every State.

And the meals can be served not only in community centers, such as schools and churches, but also directly in the homes of elderly shut-ins.

Mr. Speaker, the bill, H.R. 10551, which Mr. PEPPER and I have introduced, would authorize $150 million for 1975, and $175 million and $200 million, respectively, for 1976 and 1977.

Surely, Mr. Speaker, we can afford these modest increases in this program which is, even now, assisting the elderly poor, who, living on fixed incomes, are

now the victims of the worst inflation in a generation.

Mr. Speaker, just 2 days after the gentleman from Florida and I introduced this bill, an excellent article, which cogently describes the problems faced by older citizens experiencing higher prices for food, appeared in the Chicago Sun-Times.

And the article, "Inflation Means Hunger to the Forgotten Elderly," describes the plight of 65-year-old Asmund Bodin, who must pay $85 a month for his hotel room and $6.30 for medicaid, out of his $107 monthly social security check.

Says the article:

The rising food prices mean he does not eat enough; he skips meals. "It's a bad thing" he says. "I eat a can of this, a can of that. I keep margarine, tea and bread in my room, and I make toast on a hot plate."

But, Mr. Speaker, the article goes on to quote Florence A. Smith, a nutrition specialist, who said at a recent conference:

When anyone decreases his food intake to tea and toast, he literally commits himself to the cruelest method of biological destruction.

Last month, Mr. Speaker, Asmund Bodin enjoyed, for the first time in months, a meal of roast beef, salad, green beans, and fruit, at a nutrition center on north Michigan Avenue in Chicago—a center funded under the provisions of the nutrition program for the Elderly Act.

The center, one of 35 such sites sponsored by Mayor Richard J. Daley's office for senior citizens, offers nutritious meals at a cost of from 45 cents to 90 cents depending upon the person's income.

Mr. Speaker, the article I have cited goes on to document other shocking instances of our society's neglect of the elderly.

I was, in particular, touched by the description of 63-year John Leske, who can no longer work as a painter because of a disability.

Said Mr. Leske at the nutrition center:

I don't eat much anymore. I can't afford it. I lost 25 pounds this summer. I just go to sleep sometimes instead of eating. . . .

Mr. Speaker, quite apart from the nutritional good which comes from this program, there are, of course, other benefits, some difficult to measure.

I speak, of course, of the improved health of the elderly, as well as the opportunity such programs provide for older people to have a chance to meet and chat with others of their generation, who share their interests.

Mr. Speaker, because I believe that all of my colleagues will be interested in the article to which I have alluded, I ask unanimous consent to insert it at this point in the RECORD.

INFLATION MEANS HUNGER TO THE FORGOTTEN ELDERLY

The 1970 census listed 516,000 persons living in Chicago 60 years of age and older—15 per cent of the city's population. With most of them in retirement on small, fixed incomes from pension plans, Social Security and other annuities, inflation has been particularly difficult, in many cases devastating.

Three elderly women are enjoying the sun on a bench in Margate Park on the North Side. "I get by," says one. "I have $111 a month from Social Security and I pay $33.25 a month rent. We have learned to tighten our belts. We shop for food very strictly. I buy hamburger mostly and a lot of beans."

In a recent speech to a conference of the National Council on Aging, Sen. Charles H. Percy (R-Ill.) said, "The emphasis in this country is still placed on youth. Or perhaps I should say, 'still misplaced.' "

There are 20 million elderly persons in the United States; by the year 2000, there will be 33 million. The percentage will rise also. Today, 1 out of 10 Americans is over 65; by the year 2000, it will be 1 in 9.

Asmund Bodin is 65 years old. He lives in a hotel at 516 N. Clark. From his $107 monthly Social Security check, $85 goes for rent and $6.30 is taken out for Medicaid. The rising food prices mean he does not eat enough; he skips meals.

"It's a bad thing," he says. "I eat a can of this, a can of that. I keep margarine, tea and bread in my room, and I make toast on a hot plate."

Florence A. Smith, a federal nutrition specialist, said at the recent conference on aging: "When anyone decreases his food intake to tea and toast, he literally commits himself to the cruelest method of biological destruction."

On Thursday Asmund Bodin was enjoying a meal of roast, salad, green beans and fruit at a nutrition center at 209 N. Michigan that is one of 35 such sites sponsored by the Mayor's Office for Senior Citizens.

Depending on a person's income, the meals cost from 45 to 90 cents. The nutrition centers serve 15,000 meals a month under federal and city funding. Any Chicago resident over 60 may eat at any of the centers, most of which are located in churches, YMCAs, schools and Chicago Housing Authority buildings. In November, the centers are to begin providing a meal a day for five days each week.

Not all those who use the service are in severe financial straits but all are affected by the financial squeeze that inflation causes.

A white-haired 74-year-old schoolteacher, still agile and with bright blue eyes, says she tries to eat balanced meals but that it is not easy.

"It's bad," she said. "If things keep up this way, old people won't be able to eat by next year. I'm partial to fruits, but even half a cantaloupe costs 28 cents. It's no joke to be old."

"I like a fried egg now and then," Bodin said. "But I haven't had eggs for quite a long time. I have a friend who works in the Loop. He gives me some cheese sometimes."

Jerome Fredericks, 68, lives alone on $130 a month from Social Security and pays $45 a month rent. "I'm ashamed to say the address," he said. His address is on W. Madison. He gets his clothes from the Salvation Army and has a hot plate in his room where he cooks soup and pork and beans.

John Leske is 63 and can no longer work as a painter because of a disability. "I don't eat much anymore," he said. "I can't afford it. I lost 25 pounds this summer. I just go to sleep sometimes instead of eating, and I snitch a meal whenever I can.

"Know where I ate yesterday? A guy here told me to come with him to a church. They took us to a real high-class restaurant. We went first to the basement of the church. They never asked us anything. At the restaurant, they had real good soup, meat loaf, vegetables, potatoes, bread and butter. We even got a second cup of coffee. I went back to the church to thank them, but the door was locked."

In his speech to the aging conference, Percy said, "In the 1960s we built new colleges and classrooms for the young people from the 'baby-boom' of World War II. We poured federal monies into massive social programs to improve their lives.

"Indeed, the whole structure of American life was changed to accommodate them. We are left now, as they grow into adulthood with more than enough facilities for the young and not enough for the old."

One of the three elderly women on the bench in Margate Park says, "Maybe the government will begin paying more attention to the old people, but that will take time. What is the answer now?"

CASE OF MILIA LAZAREVICH FELZENSHTEIN

(Mr. COUGHIN asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. COUGHLIN. Mr. Speaker, during the course of this vigil on behalf of the Mills-Vanik amendment, it has been stressed that freedom of emigration is a universal human right which the Soviet Union endorses in principle but ignores in practice.

It is especially disconcerting to me that Soviet officials have distorted and acted capriciously in interpreting their policy regarding the reunion of families. On October 3, 1966, at a Paris press conference, Soviet Premier Alexei Kosygin declared that "if any families which come together or wish to leave the Soviet Union, for them the road is open, and no problem exists here.

However, this has not been the case in fact. In December 1972, Milia Felzenshtein, a World War II hero from the city of Kharkov, and his family applied for permits to emigrate to Israel, expressing a desire to be reunited with Milia's father and sister. He was certain that this request qualified under the reunion of families policy. Furthermore, since Felzenshtein is a pensioner, his wife and daughter are minor bank employees, and his son a mere schoolboy, he did not anticipate that his family's applications would present any problems.

But Kharkov OVIR, the passport office, rejected the application on two grounds: first, Felzenshtein's father and sister were not considered to be members of his family. Second, as a hero of the Soviet Union, a title of honor conferred by the Soviet Government, Felzenshtein was told that his emigration to Israel was considered undesirable.

Appealing to Premier Kosygin for a reconsideration of his application, Milia argued for the fundamental right of human beings to emigrate and pointed out that he and his family were being penalized for his heroic deeds on the battlefield in World War II.

Mr. Speaker, the plight of the Felzenshtein family is not unique. Last year I was able to speak by telephone with a Jewish woman living in Moscow who, along with her husband and two children, was attempting to emigrate to Israel. She related to me the many hardships, including the loss of her job and her husband's, which they encountered following their application for permission to leave the country. She stressed that their misfortune was not an isolated

example of Soviet harassment but rather one of many similar cases.

The time has come for Soviet leaders to revise their stand on emigration. It is time for Congress to pass the Mills-Vanik amendment.

THE NUECES RIVER PROJECT

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, last week the Water and Power Resources Subcommittee of the House Committee on Interior and Insular Affairs held a hearing in my district, the 15th Congressional District of Texas, on a project of immense importance to a large south Texas area. This is the Nueces River project, and the hearing was held at Three Rivers near the site of the Choke Canyon Dam and Reservoir.

The hearing was conducted by the Honorable BIZZ JOHNSON, chairman of the subcommittee. Also participating was the Honorable KEITH SEBELIUS, a member of the subcommittee. My friend, the Honorable JOHN YOUNG, although not a member of the panel, was very actively present, his district being included in the area that will benefit from this tremendous water development project. The subcommittee's able staff members contributed greatly to the success of the hearing.

As host Congressman, I was privileged to welcome my colleagues. I insert as part of my remarks what I said on this auspicious occasion:

Mr. Chairman, on behalf of the people of the 15th Congressional District, I welcome you to South Texas.

I hope and believe you have already been made to feel welcome at the reception arranged in your honor last night in Corpus Christi by my friend and colleague, John Young, and the people of that city.

I trust the overflow attendance of interested and concerned citizens will assure you that Three Rivers and the surrounding area welcome you here. This is truly a splendid turnout.

We owe special thanks to the Honorable John Bright, mayor of Three Rivers, for making arrangements for this session. The Three Rivers Independent School District has cooperated one hundred percent and to those responsible we are deeply grateful.

My colleague, I will tell you that the reception accorded you since you arrived in South Texas is typical of the kind of hospitality our people extend to visitors from other less fortunate regions.

We're delighted that you are here. We hope you enjoy every minute of your stay. We cordially invite you to come again.

THE NEED TO PROHIBIT MASS TRANSIT FARE INCREASES

(Mr. KOCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOCH. Mr. Speaker, with the energy crisis upon us, it seems to me it is now more essential than ever before that we provide operating subsidies for mass transit and that we bar mass transit fare increases across the country. We all know that public transportation consumes far less fuel than the private automobile per passenger mile. And so, in a time of an energy crisis, it is imperative that we encourage more people to ride public transportation and leave their automobiles at home.

Unfortunately, the effect of today's economic pressures is to send fares up. And with every fare increase, transit ridership declines with a consequent increase in automobile usage.

Therefore, I am introducing a joint resolution with our colleague from New York (Mr. BRASCO) to prohibit any transit company from increasing its fare beyond the level existing today. This freeze on fares would be effective for 2 years during which time the bill would provide $400 million annually in mass transit operating assistance in the same manner as provided by H.R. 6452, passed by the House on October 3. Thus, while freezing transit fares, the Federal Government would recognize its responsibility in helping to make up the deficits that would be incurred as a result of the fare freeze in the face of concomitant increases in operating costs. At the same time, the bill includes the original objectives of H.R. 6452—and that is to utilize these Federal funds to encourage local transit systems to improve their service and attract more passengers to their systems, objectives that certainly are consistent with energy conserving efforts now underway in other public sectors; thus, the resolution I am introducing today would require that localities provide a comprehensive service improvement program before receiving Federal aid. The resolution also provides the guidelines established in H.R. 6452 for the distribution of aid. The distribution formula is based on three factors given equal weight: population of the area served, revenue passengers carried by a system, and the vehicle miles in the system.

Mr. Speaker, to date President Nixon has opposed Federal assistance to assist transit systems in meeting the everyday costs of operating their buses, subways, and commuter railroads. He has done so even though a report made by the Department of Transportation in 1971 acknowledged that the farebox can no longer finance all transit operating costs if fares are to be maintained at a reasonable level. With the evolution of first the pollution crisis and now the energy crisis, coupled with the continual mobility problems of our cities, the importance to all members of the public of having efficient and highly utilized mass transit is amplified. If more people ride mass transit, more fuel will be available for other uses; if pollution is reduced because of a decrease in automobile traffic, a healthier environment will be provided for all of us; and if there are fewer cars on the road, traveling for those who have no choice but to use private automobiles will be easier and quicker.

In October 1972 the Office of Emergency Preparedness issued a report entitled "The Potential for Energy Conservation." One of the recommendations in this report was that the country seek to "stimulate the development of sufficiently fast, safe, inexpensive, comfortable, convenient, and reliable mass transit systems to draw passengers away from automobiles and airplanes—short trips in particular." In making this recommendation the Office of Emergency Preparedness went on to make the following pertinent points:

The program of subsidies, tax incentives and regulatory standards designed to accomplish this must take into account tradeoffs between energy consumption and attributes such as speed and service on which demand will depend.

The President is imposing a number of limitations on fuel usage. Increasing transit use is an obvious means of fuel conservation and one that does not require the bureaucratic—and often ineffective—redtape of federally imposed controls on consumption.

The need to make the most efficient use of our energy resources is apparent. In addition, the fuel shortage is a national problem and so we cannot expect localities alone to bear the burden of maintaining—and ideally lowering—transit fares.

I recommend the resolution to our colleagues and I urge the President to incorporate a freeze on transit fares coupled with Federal mass transit operating assistance in his plans for energy conservation.

BILINGUAL EDUCATION AT THE CROSSROADS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. COHEN) is recognized for 10 minutes.

Mr. COHEN. Mr. Speaker, I am introducing today legislation to amend title VII of the Elementary and Secondary Education Act of 1965 to extend, improve, and expand programs of bilingual education, teacher training, and child development.

The right of a non-English-speaking child to a meaningful education is currently an issue with which all three branches of the Government are concerned. Recently, the Office of Education held hearings on new rules and regulations it was proposing to the Bilingual Education Act, title VIII ESEA. In the Congress, the House Committee on Education and Labor continues its markup sessions to extend and amend ESEA, and the Senate Subcommittee on Education has completed hearings on two bilingual education bills introduced by Senators CRANSTON, KENNEDY, and MONTOYA. Finally, the U.S. Supreme Court is scheduled this term to hear the case of Lau against Nichols, which will decide whether non-English-speaking children have the constitutional right to special help enabling them to gain an equal educational opportunity. Certainly, we can assume that there would not be such a concerted effort within the Federal Govern-

ment to find ways to better our treatment of the non-English-speaking or bilingual child, if this was not also an issue of national prominence in the minds of the American public itself.

When the Bilingual Education Act expires next year, we will clearly be at a crossroads. Critical decisions must be made about the scope of the program and the goals it should embrace. On the first point, continuing and expanding the size of the program is, in my opinion, imperative. Fortunately, our decisions need not be made in a void. In the areas where bilingual programs have been established, the results have been very good. However, there is still an enormous gap between what we are doing and what we need to do. While over 5 million children in this country are in need of bilingual education, only 147,000 will be reached this year. We profess to believe in the availability of an equal educational opportunity for everyone. Yet, for all our idealistic rhetoric, the remaining 4,853,000 children are still denied that opportunity. If a child is provided with the same facilities, textbooks, teachers, and curriculum as other children, but that child cannot understand the medium in which the material is taught, he is effectively excluded from the educational process. Though such action by a school appears neutral on its face, it constitutes a case of fundamental discrimination.

What does this men in actual fact? In my State, it is estimated that 21 percent of all elementary and secondary pupils are familiar with French; yet in one area surveyed, where the concentration of pupils who speak French is 96 percent, only 2 percent ever enter college. In the State as a whole, 51 percent go to college. Results from a 3-year survey at one school show the dropout rate among Franco-Americans is 12 percent higher than the national average.

Furthermore, some 500 children of the State's Passamaquoddy Indian tribe speak a dialect of the Algonquin language at home, and learn English as a second language only when they enter school. Tests indicate that by the time these children reach secondary school one-third of them are two grade levels behind other children their age. No wonder interest in formal education wanes. This is expressly exemplified by one of the Passamaquoddy schools where 27 percent of the children were absent at least 77 days during 1 academic year. I know many of my colleagues could cite similar examples from their own States.

We have an obligation to make good on the promise of equal education to all schoolchildren, and a strengthened bilingual education program is a vital element in achieving that goal. I believe that passage of several of my amendments will move us in this direction.

First, a most serious discovery we are making is that we do not have the teachers, or even the teacher-training programs, to handle a program of the magnitude of bilingual education. The Office of Education has found in a study of 76 of its own programs that some or all of the teachers involved were not adequately prepared to teach bilingual programs. In my own State, the lack of adequate staff has had the effect of closing down one project. Since I feel that a quality teacher is a program's most important feature, the amendment I offer today will begin to provide more realistically for the teacher need. It earmarks one-third of all bilingual appropriations in excess of $35 million for teacher training programs in order to produce a core of experienced and qualified bilingual professionals and paraprofessionals.

Second, the amendments initiate an incentive program for State supervision of bilingual programs. To encourage the States to assume an authority over the bilingual programs which will continue after Federal sponsorship has ended, an additional 5 percent of the aggregate amount the Federal Government is paying to the local educational agencies for bilingual education would be provided at the State level.

Although State and local governments are encouraged to assist in funding bilingual projects, there has been no matching requirement with the Federal Government. Consequently many programs have failed after the initial 5 years of the program because no State commitment has been developed for continuation.

Only 11 States now have any form of bilingual education plans and only 4 are making use of them: Texas, New Mexico, California, and Massachusetts. Massachusetts has gone farther than any State by requiring every district with more than 20 non-English-speaking students to provide them with a bilingual education. Unless the Federal Government plans to continually subsidize these projects, which is not the intent of Congress, the States must be motivated to develop bilingual programs of their own.

Third, my bill upgrades the administrative structure for the bilingual education program within the Office of Education of establishing a Bureau of Bilingual Education. I feel the additional administrative authority is necessary to carry out the functions of this increasingly important program.

Fourth, the bill provides for supportive services from the National Institute of Education. Under this provision, research can be carried out to develop new books, new testing materials, new visual aids and equipment, and new curriculum plans.

Fifth, an amendment creates a new 15-member National Advisory Council on Bilingual Education to replace the old Advisory Council. The composition of the Council will stress participation from the bilingual community. The Council will have the responsibility to review and evaluate the bilingual education program.

Earlier, I spoke of the need for decisions about the goals the bilingual education program should embrace. Those of us who are fully assimilated into our traditional American society find it hard to appreciate the difficulties and barriers our great melting pot society creates for those with different languages and cultural backgrounds. In the past, we have tended to view our educational process partially as a means of enabling—or perhaps even forcing—such ethnic peoples to become an indistinguishable part of our society. We have done so by ignoring or even suppressing their cultural heritage. To many, even our program of bilingual education is defined as a means to accomplish the annihilation of foreign cultures.

More recently, we have discovered that this restrictive view of our melting-pot philosophy can have serious adverse effects on students. Educators have learned that exclusion from one's own cultural heritage and history, from one's language and community, can be so destructive to the self-confidence of a student that he gradually loses his ability to learn. Ethnic students must be able to relate their mother tongue to their personal identity, because language and the culture it carries are at the very core of a child's self-concept. Destroy this self-concept and you can destroy the child. The children who drop out of school and become part of our unemployment, welfare, and crime statistics because their heritage and special language abilities are ignored, are an economic burden which this Nation can ill afford.

Several of the amendments contained in the bill I am introducing relate specifically to the need to use bilingual education as a means to instill within the non-English-speaking child a permanent appreciation of and attachment to his cultural and linguistic heritage.

First, the language in the original legislation encouraged the idea that bilingual education was a form of "remedial" education, another method of correcting a defect in the child. The bilingual child was so abused by this "remedial" doctrine that the former Director of HEW's Office of Civil Rights, J. Stanley Pottinger, issued a memorandum which prohibited school districts from assigning non-English-speaking students to classes for the mentally retarded on the basis of criteria which essentially measured or evaluated English language skills.

The amendment I propose would eliminate the phrase "children of limited English-speaking ability." The fact that a child does not speak English does not mean necessarily that his training is inadequate. A phrase which more properly reflects the attitude promulgated today is "children who speak primarily a language other than English." By such a change, we are recognizing the fact that children who enter school with the ability to speak a language other than English have an educational asset which can be built upon and should not be discarded or destroyed.

Second, my legislation provides that an English-speaking child can participate on an elective basis in the bilingual activities offered at his school. When the bilingual education program was initiated, we were looking only at the specific needs of children who were being educationally handicapped because they did not speak English. However, it seems time to broaden our outlook on the program to recognize that children who would like to participate in the programs should have the opportunity to utilize the multiple language and cultural resources of their communities. Such flexibility, I believe, would assist in recognizing the common interests among neighbors and students which transcend cultural differences. In an age where our relations

with other countries and cultures are becoming much more extensive, such educational opportunities could prove vital to English-speaking students as well as non-English-speaking students. Certainly, in a democratic country where multiple cultures and heritages are our pride, we should be making every effort to encourage that kind of voluntary opportunity for all our children.

Third, present legislation requires that the families of children eligible for bilingual programs must have incomes below $3,000 or be receiving public assistance. Seen in a wider perspective, however, this restriction is not logical. The fact that a child primarily speaks a language other than English in no way means that the child is also poor. Likewise, the fact that a child is poor does not imply that the child primarily speaks a langugae other than English. Nobody should be excluded from receiving help in overcoming those difficulties, whatever his income. Under present law, the poor are able to improve their lot through the bilingual program, while the not-so-poor may receive an inferior education. Any child who could benefit from a bilingual program should have the opportunity to participate.

It is time for us to seize the initiative and meet the needs of this new movement toward cultural pluralism. Because of our diversity, a fully functioning program of bilingual education will bring a great renaissance to the United States. The intent of the bilingual program should reflect the renovation of this diversity, and thus the enrichment of America's culture.

ERNEST PETINAUD: A FRIEND INDEED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. MILLER) is recognized for 10 minutes.

Mr. MILLER. Mr. Speaker, last evening, I had the pleasure of joining over 300 persons in paying tribute to one of Capitol Hill's most distinguished citizens, Mr. Ernest Petinaud.

After more than 40 years of service to the Members of the House of Representatives, Ernie Petinaud is retiring. I fully expect to see him welcoming Members to the dining room out of habit after his retirement date has passed. I know that the many people who dine there will expect to see Ernie wheeling around the corner with a smile on his face, a warm handshake and a hearty "hello."

Long after leaving the Congress and the hustle and bustle of Washington, my wife, Helen, and I will long remember the thoughtfulness of Ernie and his charming wife Jeannette. More than the maitre d' of the Members' dining room, Ernie himself is an institution. Always on the job, always responsive and cordial, he seems to take the greatest pleasure in doing things for others.

His consideration for the Members of Congress, their families, our staffs, and the thousands of visitors to the Capitol building is unmatched in sincerity and I know that I echo the sentiments of all who know Ernie well, or who have met him only once, in saying that we appreciate his hard work, his personality and his perserverance. He is one in a million.

Talking with Ernie today, I asked him what he would miss most.

He answered without hesitating, "I will miss the atmosphere of friendship." Paraphasing Will Rogers, Ernie commented that he has "never met a Member he did not like."

At the same time, it goes without question that I have never met a Member—or anyone else, for that matter—who does not like Ernie.

During his brief remarks at the reception honoring Ernie last evening, he said:

To the Committee and friends who planned this fine affair for me, thanks sincerely.

In the course of human events, this is the greatest tribute that I will ever have the pleasure of enjoying.

Never has so much appreciation and kindness been expressed by so many for my wife Jeannette and I and for this I am duly grateful.

And if I should live a thousand years, this affair will remain in my memories as my finest hour.

This, my friends, is the end of an era—a time that had a certain element of people who believed and cemented the principle that a member of Congress was highly regarded.

I am proud to have been and still am a member of that dedicated group of people. To me whenever a man or woman is elected to the Congress, he instantly becomes my friend, regardless of his or her race, creed, or political persuasion. I have continued to maintain that feeling through the years of my service in the House of Representatives Dining Room and thank God I have never had to regret that attitude and manner.

And so tonight on the eve of the beginning of the end of my wonderful years on Capitol Hill, I am reaping the harvest of my labor and the compensations of my dedications.

Again, I say thanks a million and may God's blessings be with all of you and in abundance. Good night and good luck from my dear wife and I to each and everyone of you.

Ernie called his retirement an "end of an era" and said that he would miss Capitol Hill deeply.

The truth is, it is he who will be missed most of all.

TRIBUTE TO JOHN P. SAYLOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 5 minutes.

Mrs. HECKLER of Massachusetts. Mr. Speaker, I feel a tremendous sense of loss as a result of the recent death of our colleague from Pennsylvania, John Saylor.

For several years I have known Mr. Saylor through our work on the Veterans' Affairs Committee. Not only did he hold the respect and confidence of the committee members for his capable service, but he also received the admiration of all the veterans organizations who have honored him with awards or trophies at one time or another. Shortly before his death he received the coveted Silver Helmut Award from the AMVETS for distinguished service to all American veterans.

A spellbinding orator, John Saylor could hardly complete a sentence at a veterans' affairs hearing without the interruption of strong applause from veterans present who enjoyed his sentiments, his wit, and his sense of humor. He was especially interested in assisting our Vietnam veterans through their difficult period of readjustment and continually urged our national veteran organizations to orient themselves to the new problems facing our young veterans.

In addition to his outstanding work in behalf of our veterans, Mr. Saylor was a powerful and creative force in the area of conservation as the ranking member of the House Interior and Insular Affairs Committee where he consistently championed his conservation causes. Many Members of the House would not cast a vote on a conservation issue without seeking out John Saylor's opinion of the measure. I am extremely saddened by the death of this dear friend and respected colleague and extend my deepest sympathy to his beloved wife, Grace, and to his children, Susan and Phillips.

CANADIAN FUEL OILS TO FLOW ONCE AGAIN TO THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 10 minutes.

Mr. KEMP. Mr. Speaker, I am pleased to announce to this body that the Department of State has just notified me that negotiations have produced a relaxation in the Canadian Energy Board's recent directive to curtail oil exports to the United States.

The problem is not wholly resolved, for the Canadian Government must continue, understandably, its review of its own domestic supplies and needs and its capabilities for future exports to the United States. But, those particular American corporations which had already bought Canadian oil and were storing it in Canada, but whose supplies were intercepted and denied export to the United States by the board's directive, have been assured that, on a monthly allocation basis, that oil will now be shipped to the United States. This will meet immediate demands for November. More importantly, it reflects a continuation of the spirit of cooperation between the United States and Canada—so essential to obtaining future allocations.

Mr. Speaker, a firm posture has always been an effective instrument of foreign policy.

This was proved to be true once again, as the United States—both the administration and concerned Members of Congress—initiated such a firm policy with respect to the Canadian Energy Board's decision to trim the export of those home and heavy industrial heating oils to the United States.

To those Americans, from Maine to Alaska, who have enjoyed close economic interdependency and cooperation with the Canadian Government and people over the decades, it was both distressing and a heavy burden to bear when the Canadian Government, albeit, acting out of apparent self-interest, curtailed further exports of heating oils to the United

States. That action was not consistent with the close spirit of cooperation which has traditionally pervaded United States-Canadian relations. Millions of Americans along the border, principally in the major industrial cities of Buffalo and Detroit, were faced with an immediate crisis—grossly insufficient supplies of oil with which to heat homes and to heat and operate plants.

Jobs were at stake.

Economic production was at stake.

Public health, safety, and welfare were at stake.

And, the vitality of Western New York was soon to be put to the test.

Prompt—yet, prudent—action had to be the order of the day, if we were to succeed, first, in obtaining a relaxation of the Canadian Energy Board's directive, and, second, in preserving harmonious United States-Canadian relations essential for future cooperation. Sincere, candid, firm, and decisive appeals were to produce within a few days the relaxation sought in the board's policy. I am satisfied that without these personal initiatives, that relaxation might not have come as quickly as it did—or, perhaps, not at all.

On November 8—after receiving new information from a major distributor of No. 6 oil in western New York, whose supplies were already reaching the critical stage—I appealed to the Secretary of State, Dr. Henry Kissinger; to former Colorado Gov. John A. Love, presently the chief of the White House's Office of Energy Policy and principal adviser to the President on energy matters; and, to the Honorable Donald S. McDonald, Minister of Energy, Mines, and Resources, in Ottawa. A copy of my appeal to Minister McDonald follows:

NOVEMBER 8, 1973.

Hon. DONALD S. MCDONALD,
Minister of Energy, Mines, and Resources, Ottama, Ontario.

DEAR SIR: As a Member of Congress from Western New York State, I respectfully direct your attention to the current emergency situation affecting our area and all of New York State as a result of the curtailment of exports of No. 6 industrial heating oil from Canada.

The President of the R. B. Newman Fuel Corporation in Buffalo, New York, for instance, informed me today that his firm, which supplies 25 percent of the industrial oil to our area, is literally on a day-to-day basis with his customers which include hospitals, school systems, heavy industrial manufacturers, Buffalo Sewer Authority and the Main Post Office.

The Ashland Petroleum Company, I am told, is in a similar, critical position with regard to its ability to supply Canadian exported industrial oil to its customers.

It is my understanding, Sir, that the Canadian Energy Board's curtailment is in conjunction wtih your Government's current assessment of Canadian demands. In that connection, I am deeply aware of the concern you must have, in light of curtailments by the Arab States and other adverse conditions.

However, at a time when we in New York State are confronted with severe community and economic dislocations, it is incumbent upon me to apprise you of our situation with the hope that you can lend whatever assistance is practical and available and in the best interests of our traditional beneficial trade.

Sincerely,

JACK KEMP.

The following day, I went "straight to the top" and appealed to Prime Minister Pierre Trudeau:

DEAR PRIME MINISTER: On behalf of the hospitals, school systems, public authorities, heavy industrial and commercial operations of Western New York, and in the spirit of cooperation which has traditionally characterized matters of mutual Canadian-U.S. concerns, I urgently appeal to you to relay the Energy Board's current directive trimming exports of No. 6 industrial heating fuel to U.S. distributors.

I appreciate the need of the Canadian Government to review, in light of its own domestic consumption demands, its exports to U.S. firms, but the intensity of the immediate crisis in Western New York compels me to ask for a relaxation of the Board's directive even during the period in which future policies are being reviewed. Some major users we have been advised, have less than one full day's supply remaining, with only a minority of heavy users having sufficient supplies for the next two weeks. One major distributor has stopped delivery to major users this day.

In the spirit of cooperation which has pervaded Canadian-American relations, I urge this relaxation.

Very sincerely,

JACK KEMP,
Member of Congress.

While continuing efforts through the Department of State and the administration, I initiated similar efforts through the Congress. On Monday, November 12, I submitted formal testimony to the Subcommittee on Interior and Related Agencies of the prestigious Committee on Appropriations, stressing the ever-increasingly urgent nature of this crisis. And, we kept the people most effected thoroughly informed:

KEMP ASKS FIRM DIPLOMACY TO GET CANADA TO SHIP OIL

WASHINGTON.—Rep. Jack F. Kemp, R-Harrisburg, exhorted the Nixon administration Monday to employ "the strongest sort of diplomatic effort" with Canada to get vitally-needed fuel oil into the Buffalo area to stave off imminent closings of schools, factories and hospitals.

* * * * *

Kemp's comments were made in testimony Monday before the House subcommittee on interior and related agencies. He also appealed to top State Dept. officials to exert pressure on the Canadian Energy Board to permit resumption of shipments of No. 6 industrial heating oil to the Buffalo area from Canada.

Canada, faced with an energy crisis of its own, has curtailed shipments of the oil to the United States, and Kemp warned that a variety of Buffalo-area institutions might be forced to close if the oil isn't forthcoming quickly.

Kemp identified those institutions as schools, hospitals, industries and possibly the main Post Office and the Buffalo Sewer Authority.

"What good does it do to slow down to 50 miles an hour if, when you reach your destination, your place of employment is closed or the school door is locked," Kemp asked.

IMMEDIATE SOLUTION NEEDED

"As I said last week after the President's address on the energy crisis. the proposals are worthy of support and in the right direction. But they are too late and too little if we can't solve this immediate problem.

"We must deal just as hard with our friends in Canada as we do with the Soviet Union where it comes to trade bargaining. We must remind our friends to the north that they are highly dependent on U.S. exports for agricultural and other products, and that their present curtailment of critical oil supplies is jeopardizing nearly 200 years of traditional and mutual beneficial relations," Kemp told the subcommitee.

"The President told us Wednesday that 'to be sure that there is enough oil to go around for the entire winter, all over the country, it will be essential for all of us to live and work in lower temperatures.' "

"I am confident Americans are willing to make sacrifices. But they also expect their government to exercise the strongest possible efforts to alleviate the type of critical situation we have in our community and avoid outright closings, loss of wage-earning opportunities and other critical situations," Kemp said.

On Tuesday, November 13, I submitted testimony to the Subcommittee on Inter-American Affairs of the Committee on Foreign Affairs:

STATEMENT OF THE HONORABLE JACK KEMP

Mr. Chairman and Members of the Subcommittee: As a Member of Congress from Western New York, I am greatly aware of the impact of the Canadian Energy Board's current policy of curtailing exports of No. 2 and No. 6—home and industrial heating fuels, respectively—to the United States during that Board's reassessment of its domestic inventory and demand.

This impact is not potential; it is real:

Some 1700 employees of the Dunlop Tire & Rubber Corporation plant in Tonawanda, N.Y., were notified on Monday, November 12, that production activities may be closed at the end of this week because two suppliers—Ashland Oil, Inc., and R. B. Newman Fuel Corporation—can no longer obtain sufficient exports of No. 6 fuel from Canada.

Other Buffalo area institutions and firms confronted with immediate shortages of No. 6 oil include—

Children's Hospital;
Millard Fillmore Hospital;
Sisters' Hospital;
The school systems of Niagara Falls, Amherst, West Seneca, and Tonawanda;
The Main Post Office;
The Buffalo Sewer Authority;
The plants of General Mills, Goodyear, Calspan, Carborundum, Allied Chemical, Bell Aerospace; and
American Airlines.

Suppliers have been operating on a day-to-day basis during the past two weeks because of the unavailability of Canadian supply, coupled with the small reserves of domestic suppliers now being overextended and not capable of additional allocation.

Relations between the United States and Canada particularly with respect to matters of mutual economic concern, have always been good. One can appreciate and understand the need, from their perspective, for the Canadian Government to order an assessment of its own domestic inventory and needs; this is nothing more than national self-interest. Yet, as a result of this close economic cooperation in the past, we have become, particularly along the border, interdependent as to supply and demand. The Canadian people buy vast amounts of agricultural and other products from the United States; the United States buys large amounts of goods from Canada. It would be an unfortunate consequence of the present fuel shortage—over which neither nation had a great deal of control—to have relations between Canada and the U.S. strained, but we are fast reaching that point.

In furtherance of my responsibilities to the people of Western New York, I have been active in trying to secure an immediate relaxation of the Canadian Energy Board's curtailment of fuel to the United States. I have made personal appeals to former Governor John A. Love, chief of the White House's office of energy policy and principal adviser to the President on energy matters, and to

the Secretary of State, Dr. Henry Kissinger. I realize the Department of State has some other priority problems on its hands—not the least of which is resolving the Middle East crisis itself—but I do not think that the Administration has responded adequately to date in helping to secure a relaxation of the Canadian Government's decision.

Immediately upon learning last Friday from a major distributor that some major users of No. 6 fuel in Western New York had only a few days supply remaining, I dispatched an urgent telegram to Pierre Trudeau, the Canadian Prime Minister.

Yesterday, I called the critical urgency of this shortage to the attention of the Subcommittee on Interior and Related Agencies of the prestigious and powerful Committee on Appropriations.

The long-range solution to the energy crisis lies in a fuller development of domestic crude oil, a development which has been slowed in recent years by the failure to act promptly on the request for construction of the trans-Alaskan pipeline, by a failure to construct offshore facilities for the development of untapped reserves on the continental shelf, and by a failure of government to remove various disincentives to exploration, recovery, and refining. It is because of the unforeseen Middle East war that this crisis, which could in time have been alleviated by gradual increases in supply to have met gradually increases in demand, has been brought to a head. I do not think either the Canadian government or our government can be faulted for not having foreseen a war in the Middle East, but we can both be faulted for not having acted more promptly to develop independent sources.

Mr. Chairman, I request this Committee's immediate assistance with whatever means are readily available, including support for the strongest sort of diplomatic effort, to get the Canadian Government to relax its Energy Board's policy. Such a relaxation should help give us adequate time within which to develop other sources of these important fuels.

In an editorial today in the Buffalo Evening News, that influential paper called upon the Canadian Government to "keep those oil lines open." A copy of that editorial follows:

KEEP THESE OIL LINES OPEN

The peril of imminent shutdown of Buffalo-area schools and plants certainly points up the urgency of Washington's diplomatic exertions to assure a prompt resumption of the crucial heating oil shipments recently embargoed by the Ottawa government.

Canada's export restriction reflects understandable anxieties felt in Ottawa about the energy pinch in eastern provinces heavily dependent upon oil imports from Venezuela and the Arab producers.

The fact remains, however, that for Buffalo, Detroit and other metropolitan areas along the border, the action by our Canadian neighbors dramatizes the risk of intolerable disruptions of vital public services or industries at the mercy of oil-delivery shutdowns beyond their control.

Surely any restriction generated by a Canadian concern for protecting its own energy needs should take proper account of the grossly disruptive impact of a sweeping embargo on vital public institutions on the American side—an impact which we hope the Ottawa energy officials simply did not foresee in this case.

While a prompt decision to lift an unfair restriction would hopefully stave off an immediate fuel crisis this winter, no one can derive much comfort from such a chilling reminder of the dependence of the Western New York economy on oil supplies in Canada that can be shut off at will.

This is not to suggest that the main pipelines through Canada serving this area are in any imminent danger of a shutdown. The economies of the U. S. and Canada are too interdependent and too intertwined for any such follies. Nevertheless, the latest episode, coupled with Canada's self-protective action in jumping the export tax on oil from 40 cents to $1.90, does point up the timely need on both sides of the border to hasten the development of sensible, co-operative policies for dealing with continental energy shortages on a rational basis.

Apart from the international overtones of this latest energy crisis, the further lesson that it vividly illustrates is the absolutely urgent need for federal and local decision-making mechanisms that can insure proper priority in the emergency allocation of heating fuels to schools, hospitals, and similar facilities.

The energy measure now moving through Congress will presumably include the stand-by authority sought by President Nixon for the rationing of oil and gas. The White House energy office appears to be moving reluctantly toward a mandatory allocation plan to relieve critical shortages of heating oil. With the impact of Middle East oil embargoes falling so heavily on New York State and the East Coast, we see no alternative to having ready a mandatory plan to insure a fair distribution to homes and vital public services.

I am, therefore, most pleased to have been able to announce to this body today's relaxation of the board's directive. I trust that the ultimate resolution of the problem will be equally satisfactory.

FOREIGN TENDER OFFERS DOUBLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. DENT) is recognized for 10 minutes.

Mr. DENT. Mr. Speaker, last week, 13 colleagues joined with me in introducing H.R. 11265, the Foreign Investors Limitation Act. This bill would require foreign investment in the United States in a manner consistent with the national security, the conservation of national resources, and the protection of the economy of the United States. One way of determining the extent of foreign interest in the United States is to analyze tender offers made by foreign groups to American corporations. In a recent communication, I asked the Securities and Exchange Commission to provide me with a list of all foreign originated tender offers filed with the SEC. I am submitting the results of that request, as well as explanatory information for the information of my colleagues. It is worthwhile to point out that tender offer bids in fiscal year 1973–74 will undoubtedly double those made in fiscal year 1972–73. It is also necessary to distinguish tender offers from foreign direct investment:

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., October 23, 1973.

Hon. JOHN H. DENT,
House of Representatives,
Washington, D.C.

DEAR MR. DENT: This is in response to an October 11, 1973, request made by Ms. Julie Domenick, of your staff, for a list of all foreign originated acquisitions and tender offers filed with the Securities and Exchange Commission since the adoption of the Williams Act, which amended the Securities Exchange Act of 1934, on July 29, 1968.

Attached hereto is a recently compiled list of foreign bidder tender offers filed with the Commission since July 1, 1972. The list was originally prepared because of the growing interest in tender offers by foreign entities and will be maintained so long as there is a continuing interest therein.

Although Ms. Domenick requested that the compilation include all foreign originated tender offers and acquisitions filed with the Commission since 1968, such a list would involve a very considerable amount of staff time to prepare. Our experience in preparing the attached list, which started with the 1972–1973 fiscal year, showed that it was necessary to thoroughly examine each of the 75 tender offers filed with the Commission during the 1972–73 fiscal year because some of the tender offers were made by foreign bidders through wholly-owned or controlled subsidiaries in the United States. This review required many man-hours, many of which were spent on the staff member's own time. In light of the time spent reviewing those 75 tender offers, it is obvious how difficult, costly and time-consuming it would be to review the 3,012 acquisition statements and the 272 tender offers filed since July 1968.

As you know, on December 22, 1970, the Williams Act was amended, extending the coverage to encompass acquisitions of and tender offers for equity securities of insurance companies and extending the disclosure provisions to acquisitions and tender offers for amounts in excess of 5%, instead of 10%, of a class of equity security. Thus, a review of all the filings since July, 1968 will not reflect a standard minimum percentage of ownership and will not include the same types of target companies.

Since the Williams Act filing requirements are triggered by a percentage of ownership of a class of equity security which is registered pursuant to Section 12 of the Exchange Act, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in Section 12(g) (2) (G) of the Exchange Act or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, a review of the Williams Act filings will omit all tender offers or acquisitions involving securities of companies which do not fall within these categories. Similarly, such a review will not cover those acquisitions and tender offers which are exempt from filing under the Williams Act. Accordingly, the preparation of a complete list of foreign ownership and control would require, in addition to the review of the Williams Act filings, an examination of the several hundred thousand Forms 3 and 4 filed pursuant to Section 16(a) of the Exchange Act and Rule 16a–1(a) promulgated thereunder. Form 3 (the initial report) and Form 4 (the current report) are required to be filed by every person who owns more than 10% of a class of equity security registered pursuant to Section 12 or who is a director or an officer of an issuer of such security. It should be noted that none of the filings whether pursuant to tender offers, acquisitions, or Forms 3 and 4 are filed according to the nationality of the person filing the statement.

With the present heavy workload and limited staff, we would have great difficulty in complying with your request. However, if you should desire information in addition to that enclosed, please feel free to contact me again.

Sincerely yours,

GEORGE A. FITZSIMMONS,
Secretary.

FOREIGN BIDDERS

Number and target	Bidder	Foreign country	Tender offer or acquisition	Date filed
1973-74 FISCAL YEAR				
2. The Conrex Corp	Chloride Group Ltd	England	Tender offer	July 10, 1973
3. Texasgulf Inc	Canada Development Corp	Canada	do	July 24, 1973
4. Dearborn Storm Corp	Trafalgar House Investments Ltd	England	do	Aug. 7, 1973
7. The Signal Companies, Inc	John L. Loeb Group	United States, Italy, Canada, France, England.	do	Aug. 8, 1973
5. Sonesta International Hotels Inc	Morris Saady	England	Acquisition	Aug. 10, 1973
6. Sea Containers Inc	Bankers Trust International	do	do	Aug. 13, 1973
1. Travelodge International Inc	Trust House Forte Ltd	do	Tender offer	Aug. 17, 1973
8. GRI Computer Corp	Eastern International Investment Trust Ltd	do	Acquisition	Aug. 20, 1973
9. Lewis Refrigeration Corp	Toromont Industrial Holdings Ltd	Canada	Tender offer	Sept. 5, 1973
10. Whitney Fidalgo Seafoods, Inc	Kyokuyo Co. Ltd	Japan	do	Sept. 10, 1973
11. Western Decalta Petroleum Ltd	Anglo American Corp. of Canada Ltd	Canada	Acquisition	Sept. 12, 1973
12. United Brands Company	Rederi Ab Salenia	Sweden	do	Sept. 24, 1973
13. I-T-E Imperial Corporation	IFI International S.A. (whose largest stockholder—Italian).	Luxembourg	do	Sept. 26, 1973
14. Indian Head Inc	Thyssen-Bornemisza Group, N.V	Netherlands	Tender offer	Do.
15. Allied Aero Industries, Inc	Audi S/A	Brazil	Acquisition	Oct. 9, 1973
1972-73 FISCAL YEAR				
1. Akzona, Inc	Akzo N.V	Netherlands	Tender offer	July 20, 1972
2. Kings Lafayette Corp	Edmond J. Safra	Switzerland	do	Aug. 8, 1972
3. General Host Corp	Triumph American Inc	England (sub)	do	Mar. 15, 1973
4. Mercantile Industries Inc	Kay Corp	do	do	Apr. 24, 1973
5. Certain-teed Products Corp	Compaigne de Saint-Gobain-Pont-a-Mousson	France	do	May 3, 1973
6. Franklin Stores Corp	Slater Walker of America, Ltd	England (sub)	do	May 11, 1973
7. Ronson Corp	Liquigas S.P.A. and Lifquifin	Italy and Liechtenstein	do	May 31, 1973
8. Gimbel Brothers, Inc	Brown and Williamson Tobacco Corp	England (sub)	do	June 11, 1973

CPA AT AEC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes.

Mr. FUQUA. Mr. Speaker, I wish to continue sharing with the Members material I have been receiving concerning the effect of the proposed Consumer Protection Agency on various Federal agencies mentioned in our hearings as major targets for CPA advocacy.

There are three CPA bills now pending in a Government Operations Subcommittee on which I serve—H.R. 14 by Congressman ROSENTHAL, H.R. 21 by Congressmen HOLIFIELD, HORTON and others, and H.R. 564 by Congressman BROWN of Ohio and myself.

The principal difference among the bills is that H.R. 14 and H.R. 21 would grant the CPA the right to challenge in court the final actions of other agencies, including their decisions not to act on given matters. The Fuqua-Brown bill would not grant the CPA court appeal power, an extraordinary power for a nonregulatory agency.

As we prepare for a potentially difficult winter due to the energy crisis, the question of CPA's role in the various agencies associated with power supply becomes a critical one. I have already introduced into the RECORD material from the Tennessee Valley Authority and the Federal Power Commission. Another important agency in the power community is the Atomic Energy Commission. I shall introduce material on the AEC today.

The AEC, of late, has been beseiged by environmentalists and consumerists, including Ralph Nader who has expressed deep concern over the safety of nuclear reactors. In our hearings this year on the CPA bills, the American Bar Association used the AEC to illustrate how the CPA would appeal final agency actions under the two bills which would allow such CPA action.

In regard to the question of CPA appeals, I should note that the General Counsel of the AEC reports the following with respect to areas technically subject to CPA appeal under all the bills except the Fuqua-Brown bill:

As you know, in addition to Regulatory authority, the AEC has the responsibility for opertaing a number of Government installations and national laboratories. These operations, under the direction of the General Manager, involved in 1972 over two billion dollars. Substantially, all actions taken by him could be tested in the courts.

In addition, every issuance, modification, denial, etc. of a licensing or enforcement decision, and every adoption of a regulation by the Director of Regulation is also subject to court review (Representative types can be found in the answer to questions 1, 3 and 4).

There are literally millions of actual annual final agency actions subject to CPA court appeal under the bills, and perhaps billions of such actions if we consider that inaction is final action under the CPA bills which would grant the CPA the power to take its sister agencies to court. No one can say whether the CPA will decide to challenge any of these actions, because the bills which would allow CPA appeals leave this up to the CPA's discretion.

I personally think granting the nonregulatory CPA the right to challenge in court the final decisions of regulatory agencies in an abdication of Congressional responsibilities. If we lodge the duty of making a final decision for the Government in one agency, we should not create another agency with a countervailing right to remove that duty and place it on the overburdened courts. The Fuqua-Brown bill, therefore, would grant the CPA the right to seek a rehearing at the administrative agency level, but not at the court level.

For the important reason of preventing confusion when a CPA bill comes to the floor this Congress—and, we experienced considerable confusion when such a bill came to the floor last Congress—I now continue to share with the Members material submitted to me by key federal agencies.

This material divides the AEC's 1972 activities into the various areas in which the CPA would act as an advocate under the bills now pending. I place it in the RECORD with the hope that it will be reviewed by all Members who are interested in creating a responsible CPA:

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., November 9, 1973.

Hon. DON FUQUA,
House of Representatives.

DEAR MR. FUQUA: Your letter of September 7, 1973 to Chairman Ray has been referred to me for reply. The information you have requested follows:

Question 1. Regulations (or proposals) issued in accordance with 5 USC 553 during 1972 included:

1. Unclassified Activities in Foreign Atomic Energy Programs (37 F.R. 92, 14872 and 23953; 01/05/72, 07/26/72 and 09/05/72; 10 CFR Part 110).

2. Licensing of Production and Utilization Facilities—Effluents from Light Water Cooled Nuclear Power Reactors; Supplemental Notice of Hearing (37 F.R. 287; 01/08/72; 10 CFR Part 50).

3. Facilities and Materials Licenses—Proposed Fee Schedules (37 F.R. 1121; 01/25/72; 10 CFR Part 170).

4. Licensing of Production and Utilization Facilities—Information Requested by Attorney-General for Antitrust Review of Facility License Applications (37 F.R. 7810; 04/20/72; 10 CFR Part 50).

5. Financial Protection Requirements and Indemnity Agreements—Indemnity Locations (37 F.R. 9227; 05/06/72; 10 CFR Part 140).

6. Rules of Practice; Licensing of Production and Utilization Facilities—Restructing of Facility License Application Review and Hearing Processes and Consideration of Environmental Statements. (37 F.R. 9331; 05/09/72; 10 CFR Parts 2, 50).

7. Operators' Licenses—Requirements for Renewal (37 F.R. 11785; 06/14/72; 10 CFR Part 55).

8. Requests for Declassification Review (37 F.R. 15624; 08/03/72; 10 CFR Part 9).

9. Fees for Licenses Issued to Government Agencies for Nuclear Power Plants—Removal of Exemption (37 F.R. 20871; 10/04/72; 10 CFR Part 170).

10. Standards for Protection Against Radiation—Posting of Enforcement Correspondence at Licensee's Facilities (37 F.R. 21652; 10/13/72; 10 CFR Part 20).

11. Environmental Effects of the Uranium Fuel Cycle—Notice of Proposed Rulemaking (37 F.R. 24191; 11/15/72; 10 CFR Part 50).

12. Grand Junction Remedial Action—Proposed Criteria (37 F.R. 22391; 10/19/72; 10 CFR Part 12).

13. Permits for Access to Restricted Data—Data Concerning the Separation of Uranium Isotopes (37 F.R. 26344; 12/09/72; 10 CFR Part 25).

Question 2. None.

Question 3. Administrative adjudications proposed or initiated in 1972 included the following licensing actions:

Materials Licenses—none.

Facility Licenses.

1. Construction Permit Applications:

Plant—Notice of Hearing

Zimmer 1, Mar. 7, 1972.
Arkansas 2, Apr. 13, 1972.
Hatch 2, July 18, 1972.
San Onofre 2 and 3, Aug. 10, 1972.
Waterford 3, Aug. 16, 1972.
Forked River, Aug. 16, 1972.
Nine Mile Point 2, Sept. 23, 1972.
Susquehanna 1 and 2, Sept. 23, 1972.
Summer 1, Sept. 27, 1972.
Watts Bar 1 and 2, Sept. 27, 1972.
Hanford 2, Sept. 28, 1972.
Harris 1, 2, 3 and 4, Sept. 29, 1972.
North Anna 3 and 4, Oct. 4, 1972.
LaSalle 1 and 2, Oct. 6, 1972.
Beaver Valley 2, Nov. 28, 1972.
Catawba 1 and 2, Dec. 1, 1972.
Grand Gulf 1 and 2, Dec. 12, 1972.

2. Mandatory Hearings for Reactors Under Construction in accordance with Appendix D, 10 CFR 50.

Plant—Notice of Hearing

North Anna 1 and 2, February 22, 1972.
Diablo Canyon 2, December 27, 1972.
Trojan, December 29, 1972.

3. Operating License Applications.

Plant—Notice of Consideration of Issuance of Operating License

Calvert Cliffs 1 and 2, March 25, 1972.
Surry 2, March 28, 1972.
Ft. St. Vrain, May 4, 1972.
Ft. Calhoun, May 12, 1972.
Kewaunee, June 22, 1972.
Cook 1 and 2, June 29, 1972.
Zion 1 and 2, June 30, 1972.
Three Mile Island, July 7, 1972.
Oconee 2 and 3, August 10, 1972.
Midwest Fuel, August 11, 1972.
Browns Ferry 1, 2 and 3, September 20, 1972.
Arnold, September 30, 1972.
Fitzpatrick, October 3, 1972.
Peach Bottom 2 and 3, October 3, 1972.
Millstone 2, October 11, 1972.
Prairie Island 1 and 2, October 11, 1972.
Arkansas 1, October 12, 1972.
Cooper, October 13, 1972.
Crystal River 3, October 14, 1972.
Rancho Seco, October 18, 1972.
Hatch 1, October 19, 1972.
Salem 1 and 2, October 20, 1972.
Indian Point 3, October 25, 1972.
Brunswick 1 and 2, November 3, 1972.
Beaver Valley 1, November 10, 1972.

4. Opportunity for Hearing for Reactors with Operating Licenses in accordance with Appendix D, 10 CFR 50.

Plant—Notice of Opportunity for Hearing

Point Beach 1, July 7, 1972.
Monticello, August 25, 1972.
Millstone 1, November 28, 1972.
Oyster Creek 1, November 28, 1972.
San Onofre 1, December 1, 1972.
Nine Mile Point 1, December 5, 1972.
Ginna, December 8, 1972.

Question 4. During 1972 there were no hearings held which resulted in the imposition of civil penalties. There were, however, four occasions when monetary civil penalties were imposed in which payment was remitted without a request for a hearing. The firms so affected were: Pittsburgh Testing Laboratory; New England Nuclear Corporation; Interstate Industrial Laundry and Decontamination Services and Universal Testing Corporation.

Question 5. None.

Question 6. Representative public and nonpublic activities proposed or initiated by the AEC during 1972 included:

1. Proceedings concerning the health and safety, environmental and antitrust aspects of construction permits and operating licenses for nuclear reactors including power plants, test facilities and research reactors, as well as fuel cycle facilities.

2. Proceedings relating to the issuance of licenses for possession and use of special nuclear material, source material and by-product material, including licenses for the disposal of radioactive waste material and radioactive waste burial, some licenses to manufacture products containing radioactive material, and some licenses for shipment of radioactive material.

3. Contractor selection actions.

4. Contract awards.

5. Assignments of a given portion of research and development to a particular organization.

6. Establishment of AEC prices for special nuclear material, toll enrichments, etc.

7. Inspection of licensed facilities.

8. Contract negotiations and positions to be taken concerning negotiations.

9. Telephone conversations between AEC staff and outsiders concerning any subject under Commission consideration.

Question 7. As you know, in addition to Regulatory authority, the AEC has the responsibility for operating a number of Government installations and national laboratories. These operations, under the direction of the General Manager, involved in 1972 over two billion dollars. Substantially, all actions taken by him could be tested in the courts.

In addition, every issuance, modification, denial, etc. of a licensing or enforcement decision, and every adoption of a regulation by the Director of Regulation is also subject to court review (Representative types can be found in the answer to questions 1, 3 and 4).

If we can be of further assistance, please let us know.

Sincerely,

MARCUS A. ROWDEN,
General Counsel.

FIFTY-FIFTH ANNIVERSARY OF LATVIAN INDEPENDENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, on November 18 the United Latvian Associations of Chicago will commemorate the 55th anniversary of Latvian independence at the River Forest High School, 201 North Scoville Avenue in Oak Park, Ill.

An organization active in making the facts about Latvia and the Latvian nation available to people in the free world who are interested in the Baltic problem, and dedicated to the preservation of Latvian cultural awareness, the United Latvian Associations of Chicago is headed by capable leaders: Rolands Kirsteins, president; Alberts Raidonis, vice president; and Rudolfs Arums, secretary.

Although Latvia has been occupied by foreign powers throughout most of its history, the people of this nation have maintained their language and cultural identity. In November of 1918 they had their chance for freedom and proclaimed their independence.

The new state, with a population of slightly over 1 million was in a precarious position from the beginning as it was surrounded by more powerful neighbors. However, Latvia survived and the interwar years marked a renaissance of Latvian politics and culture. For 22 years the Latvian Government functioned on the basis of a true proportional representation. Numerous political parties, of all opinions, existed and actively contested free and open elections. Latvia was a model democracy. Because the basis of a healthy democracy is an enlightened electorate, Latvians spent over 15 percent of their national budget on education. Free public schools were open to all and by 1940 the literacy rate was over 90 percent.

The vitality of the Latvian people was also indicated in their economic accomplishments. Latvia was one of the first European countries to reform its currency and financial system. The land reform law of 1920 distributed land of the old feudal estates on a democratic basis.

All segments of Latvian society participated in its economic life. By 1937 there were 5,717 industrial enterprises in Latvia and some 70,000 farmers were enrolled in 2,300 educational societies. Latvian trade was almost completely with the West, being carried on Latvian ships.

On February 5, 1932, Latvia and the Soviet Union signed a treaty of nonaggression which absolutely forbade Russian intervention in Latvian affairs. But, soon afterward, in violation of their written promise, the Communists began to undertake the active subversion of free Latvia.

In August of 1939 Latvia's fate was sealed by the infamous Nazi-Soviet Pact. It was indeed a dark day when Joseph Stalin, in open violation of international law and the nonintervention treaty, unleased the Red army to invade Latvia in accordance with the terms of the Nazi-Soviet Pact.

When Hitler invaded the Soviet Union in 1941, there was a change in the status of the people of Latvia, but only in that their destiny was transferred from the hands of one totalitarian regime into the hands of another. For 2 years Latvians were subject to Nazi control, but as Hitler's army retreated, the Red army and its legions of political agents returned to subjugate Latvia anew. After the war, the Russians consolidated their hold on Latvia by incorporating it into the Soviet Union.

At the end of World War II, approximately 100,000 persons emigrated from Latvia and later were dispersed throughout the free world.

Today, statistics show that, through three generations, many hundreds of this number are true scholars of higher learning in the humanities, as well as in the technical sciences. The numerical majority are of the younger generation, who attained their success in emigration, and this shows the strength of vital creativity in these people even during difficult times.

The Latvian people and their great endeavors fit into the pattern of the "mosaic of America." They have brought their hopes of freedom to this great country in addition to their ethnic heritage and culture, arts, science, history, and knowledge, and have contributed much to this great country of America.

The liberty that we enjoy in America, however, has been denied those who remain in Latvia. On this 55th anniversary of Latvian Independence Day, I am honored to join Latvian-Americans in the 11th Congressional District, which I am proud to represent, in the city of Chicago, and all over this Nation in their fervent hope that the people of Latvia will soon achieve their freedom once again. Let the people of Latvia know full well of our uncompromising support for their unquenchable thirst for liberty.

Mr. Speaker, at this point in the RECORD I would like to include a statement unanimously adopted by the Association of the Latvian Societies in the United States at their meeting in Grand Rapids, Mich., on October 20 and 21, with reference to the 55th anniversary of the proclamation of Latvian independence. The statement follows:

STATEMENT

The Association of the Latvian Societies in the United States, at their meeting on October 20 and 21, 1973 in Grand Rapids, Michigan, unanimously adopted the following statement:

1. On the Eve of Latvia's 55th Anniversary of the proclamation of Independence, we thank again the United States government for not recognizing the forcible incorporation of Latvia and other Baltic States into the Soviet Union.

2. We implore the government to aid the cause of freedom and self-determination in the Baltic States. The freedom of speech and intellectual creativity is being stifled since the occupation of 1940. We express our hopes that the government of the United States will actively proclaim the need to restore the lost freedoms in Latvia, Estonia and Lithuania in the European Security Council and other world forums.

3. The proposed new economic regions in the USSR essentially announce intensification of the campaign to russify the non-Russian people in the Soviet Union. We urge the United States government to interfere with this plan in Latvia and other Baltic states.

4. With deep concern we are following the policy of the United States government regarding the detente with the Soviet Union. The United States and the Soviet Union has signed 52 agreements of which the Soviet Union so far has kept only 2.

5. We have not been in favor of and we are not supporting the economic help to the Soviet Union at the taxpayers expense until freedom and humanity is restored in Latvia, Estonia, Lithuania and other Captive Nations. We have reasons to believe that the Soviet Union's imperialistic policy has not been changed and will not be changed, and the economic assistance will only help the Russians to reach their goal—world domination.

6. Since the year of 1973 has been proclaimed as Europe's year, we urge the United States government to use its influence to end the occupation of the Baltic States by the Soviet Union.

This statement is to be forwarded to the President of the United States, Secretary of State, United States Senators and Members of the House of Representatives.

TEAPOT DOME AGAIN REVISITED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 5 minutes.

Mr. MOSS. Mr. Speaker, a few weeks ago, in a floor statement, I revealed the contents of a letter I had sent the President and appropriate Cabinet members over a situation pertaining to two naval petroleum reserves, Elk Hills, Calif., and Teapot Dome, Wyo.

In that letter and accompanying statement, I made public the fruits of certain researchers I have been conducting into how private interests, with knowledge of several government agencies, have been extracting oil for a number of years under the most questionable circumstances from the environs of these reserves, set aside for national defense. Naturally, there has been significant reaction. It is my purpose today to deal with comments emanating from the State of Wyoming, where Teapot Dome is located.

In the case of that reserve, we find a longstanding Federal regulation against drilling by private interests on Federal land within a 1-mile buffer zone any reserve boundary has been violated as a result of actions taken by the Bureau of Land Management. At Teapot, BLM allowed an oil company to drill within 50 feet of the actual reserve boundaries, despite Navy protests. This has been going on for years, and is corroborated by documents in my possession, starting with a GAO report, a document provided by the Navy's Office of Petroleum Reserves and GAO testimony before the House Armed Services Committee. Any Member of Congress, private citizen and member of the media may inspect these papers to verify their existence and contents.

Regrettably, some few critics refuse to accept such facts as truth. I have been in receipt of a letter from the Governor of Wyoming, the Honorable Stanley K. Hathaway, admonishing me to "validate your allegations before releasing them to the press." He enclosed a letter sent him by a Mr. Donald B. Basko, Wyoming's State oil and gas supervisor, purporting to disprove both my revelations and accompanying evidence.

Taking the Governor at his word, I have indeed "validated my allegations," and have sent them to him in the form of a letter, citing chapter and verse from government documents I earlier referred to. Knowing they will be of intense interest to the Governor, Mr. Basko, the American public, the media and of course the people of Wyoming, I now take the step of making them known to the widest possible audience as a means of protecting the public interest against further damage to the Reserve, and to accelerate the move towards a full, formal investigation of what has been going on.

Therefore, I take the liberty of including Governor Hathaway's letter, Mr. Basko's communication and my response, which, by courtesy, has already reached the Governor. With unanimous consent, I include them here in my remarks at this point, in the humble hope that enlightenment is but the prelude to reform.

WYOMING EXECUTIVE DEPARTMENT,
Cheyenne, Wyo., October 31, 1973.

Hon. JOHN E. MOSS,
Members of Congress, House Office Building, Washington, D.C.

DEAR CONGRESSMAN MOSS: Your recent allegations that Naval Petroleum Reserves are being depleted by the major oil companies in Wyoming does not appear to be borne out in fact.

The enclosed letter from the Supervisor of the Wyoming Oil and Gas Conservation Commission provides information with respect to the Teapot Naval Petroleum Reserve in the State of Wyoming. Perhaps it would be well for you to validate your allegations before releasing them to the press.

Very truly yours,

STAN HATHAWAY.

THE STATE OF WYOMING,
Casper, Wyo., October 26, 1973.

Hon. STANLEY K. HATHAWAY,
Governor of Wyoming, State Capitol Building, Cheyenne, Wyo.

DEAR GOVERNOR HATHAWAY: On Thursday, October 25, 1973, the Casper radio stations carried a report that Representative John E. Moss from California had written to President Nixon alleging that major oil companies were depleting Naval Petroleum Reserves in California and Wyoming by locating and producing wells adjacent to the Reserve boundaries. It is my understanding that this story also appeared in the Laramie newspaper on Friday, October 26, 1973.

Representative Moss claimed in his statement that this was resulting in "windfall" profits to major oil companies and that the situation paralleled the Teapot Dome scandal in magnitude, and that something should be done to remedy the situation immediately.

The facts of the matter are that the Teapot Naval Petroleum Reserve No. 3 is adjoined on the East by producing wells operated by Union Oil Company of California and Teapot Oil & Refining Company, a very small independent. The Reserve is bordered on the Northwest by Terra Resources, Inc., the operator of the South Salt Creek Unit. Almost the entire West flank and North and South boundaries have no wells that are producing outside of the Petroleum Reserve. Wells which are operated by Terra Resources, Inc. on the Northwest flank are alternated with water injection wells, which effectively prevent the migration of oil across the boundary line.

The following is a statistical review of the volumes of fluid which have been produced during August of 1973:

Union Oil Company of California:
No. of producing wells: 11.
No. of shut-in wells: 66.
Oil: 1,722 bbls.
Water: 23,954 bbls.
Gas: None.
Teapot Oil & Refining Company:
No. of producing wells: 40.
No. of wells shut-in: 21.
Oil: 2,435 bbls.
Water: 2,123 bbls.
Gas: None.
Terra Resources, Inc.:
No. of producing wells: 7.
No. of wells shut-in: 6.
No. of active injection wells: 8.
Oil: 3,840 bbls.
Water: 2,637 bbls.
Gas: None.
U.S. Navy:
No. of producing wells: 75.
No. of wells shut-in: 60.
Oil: 12,930 bbls.
Water: 207,104 bbls.
Gas: 8,029 MCF.

This situation has prevailed for a considerable length of time, and it is my opinion that the substantial imbalance of total fluid withdrawals from within the Reserve over that from offsetting properties precludes any possibility of drainage from the Reserve to offsetting property. Conversely, if drainage is occurring, it is more likely to be toward the Reserve and to the benefit of the U.S. Navy.

This information is furnished for your consideration and disposition as you see fit.

Very truly yours,

DONALD B. BASKO,
State Oil and Gas Supervisor.

CONGRESS OF THE UNITED STATES,
Washington, D.C. November 12, 1973.

Hon. STAN HATHAWAY,
Governor, State of Wyoming, Cheyenne, Wyo.

DEAR GOVERNOR: I am in receipt of your letter of October 31, accompanied by an enclosure purporting to contradict evidence I have made available to the President regarding the Teapot Dome Naval Petroleum Reserve. Perhaps the following information and citations will illuminate the situation for you regarding how certain private interests have been allowed to drain oil from and damage the Teapot Dome Reserve.

To substantiate your disagreement with my public position, you included a letter sent you by Mr. Basko, Wyoming's State Oil & Gas Supervisor, purporting to develop factual material. If anything, that communication further reinforces my position that private oil interests have been allowed by government agencies to violate Federal regulations, and have drilled wells against Navy protests, damaging Teapot Dome and forcing the Navy to drill offset wells within the Reserve to prevent further drainage.

As Basko's letter points out, drilling around boundaries of Teapot has been going on since 1958. The U.S. Geological Survey bears the onus of having allowed an exception to a Federal regulation forbidding drilling of wells by private operators within 200 feet of a Naval Petroleum Reserve. Title 30, Part 221.20, Code of Federal Regulations.

This situation was conclusively revealed by a report to the Congress from the Comptroller General of the United States and his General Accounting Office. That report, dated October 5, 1972, No. B–66927, is entitled: "Capability of the Naval Petroleum & Oil Shale Reserves to Meet Emergency Oil Needs." I refer you specifically to pages 26 and 27.

Private drilling in the Shannon Sand, on the eastern boundary of Teapot, created a drainage problem for the Navy in 1968. As a result, Navy has drilled some 104 offset wells within the Teapot Dome Reserve in a period of three years.

The next drainage problem occurred northwest of the reserve in the Second Wall Creek Sand in October of 1965, causing the Navy to drill 18 offset wells between that time and 1967. The Shannon case involved MKM Co. The Second Wall Creek Sand case involved a subsidiary of American Metal Climax; a company named Amax, later bought out by Consumers Refining Association, which was in turn purchased by Terra Resources. Amax received an exception from the Geological Survey, allowing it to violate the Federal regulation over Navy protests, and to drill within 200 feet of the Teapot boundary. This occurred in 1965.

In the Shannon Sand case, from December 9, 1958, to January 1, 1973, 2 and ½ million barrels of oil have been taken out by the Navy through offset wells and disposed of through Western Crude Refining Co.; oil the Navy would rather not produce, preferring instead to keep it in the ground for national defense purposes. In the case of the Second Wall Creek Sand, the Navy has had to produce 1.1 million barrels from September of 1965 to January 1, 1973. This makes a total of 3.6 million barrels of oil reserved for national defense produced and sold because of the Survey's actions. It is known that private operators have produced 1.8 million barrels of oil up to January, 1973, from the area known as B–1, Salt Creek South Unit, Second Wall Creek Sand. This comes to a grand total of 5.4 million barrels of oil taken out, to the best of my knowledge, by both private operators and the Navy, from Teapot and its environs, all in violation of Federal regulations.

Activities by private operators have caused water from the process used to invade the Teapot Reserve, damaging its wells and eroding their produceability. To get oil out, the Navy must drill more wells and extract water. All such damaging activities were going on with full knowledge and permission of the Bureau of Land Management of the Interior Department.

To further enlighten you and Mr. Basko let me quote from a second document verifying this situation. Entitled: "History of Naval Petroleum & Oil Shale Reserves," and dated October 1 1973, it was prepared by the Office of Naval Petroleum & Oil Shale Reserves of the Department of the Navy. Quoting from pages 11 and 12:

"Operators on the eastern boundary of the reserve obtained commercial oil production from the shallow Shannon Sand by use of the then new oil production technique called 'sand fracturing'. This again opened the question of drainage. Operations of these adjacent operators were placed under surveillance and data were assembled to permit an engineering study. Both Geological Survey and Navy's engineering consultants concluded that drainage from the Reserve was probably occurring."

"All information obtained indicated production (inside the reserve) was necessary to prevent drainage of oil from the Reserve." "To date some 104 Shannon wells have been drilled to protect 4 and ½ miles of common boundary."

"Private operators on the northwest border of the reserves initiated a secondary recovery project in October, 1965 by injecting water into portions of the Second Wall Creek formation. Offset production by Navy became necessary after efforts to persuade the private operators to change their flood pattern failed. With the concurrence of another government agency the private operators drilled water injection wells 50 feet from the reserve boundary which compelled the Navy to commence a costly offset drilling and producing program in order to protect the Reserve from most of the damaging effects of the invading waters."

Returning to Mr. Basko's letter, we can note that he has apparently overlooked the illegality of activities at taxpayer and national defense expense, while acknowledging they have been going on. If he has documentation refuting what the Navy and U.S. General Accounting Office have published, by all means let him enlighten me. I hope this communication has helped clear up questions you have had about this situation. I know you share my concern over what has occurred and will join in seeking a full investigation.

Sincerely,

JOHN E. MOSS,
Member of Congress.

TRIBUTE TO THE PROGRESSIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. STARK) is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the editors of the magazine The Progressive have written an editorial statement followed by a draft bill of impeachment in the December issue that I commend to the attention of my colleagues. I am today introducing these articles of impeachment. The high crimes and misdemeanors presented form the most concise yet comprehensive statement I have seen on the need to begin impeachment proceedings:

A CALL TO ACTION

(By the Editors of The Progressive)

Crisis. The word has been overworked by all of us, and particularly by those engaged in reporting, analyzing, and interpreting the news. We have been recording monthly, weekly, daily crises for longer than we care to remember—foreign and domestic crises, military and political crises, economic, moral, and cultural crises. A headlined crisis no longer generates alarm, or even profound concern. Ho hum, another crisis. . . .

But the crisis that grips America today is of another, higher magnitude—one that deserves, perhaps, a new term that has not been eroded by abuse. It swirls, of course, around the person of the President of the United States, but it impinges on every facet of the national life and character. We are confronted, suddenly and dramatically, with fundamental questions about our national community—questions that demand swift and decisive answers.

Are we prepared, after almost 200 years, to abandon our experiment—intermittently successful but always hopeful—in enlightened self-government? Will we permit our highest and most powerful office—an office whose occupant can literally decide the future and even the survival of the nation and the world—to remain in the hands of a man who has, in the words of the American Civil Liberties Union, "made one thing perfectly clear: He will function above the law whenever he can get away with it"? Will we refrain, because of our timidity or sheer inertia, from availing ourselves of the remedies provided by the Constitution of the United States for precisely such an emergency?

Three years remain in Richard M. Nixon's second Presidential term—time enough for him to compound and render irreversible the catastrophic damage he has already done. It is understandable that the President may feel that if he can survive in office for those three years, he will have achieved a measure of vindication. But his vindication will be our indictment and conviction. If we, the American people, knowing what we now know about this President and his Administration, permit him to serve out his term, we will stand condemned in history for the grave offense of murdering the American dream.

These pages go to press amidst a chorus of demands for Mr. Nixon's resignation. The demands emanate not only from Mr. Nixon's long-standing critics—his "enemies," as he would doubtless style them—but from many who were, until recently, among his most enthusiastic supporters. The editors of Time, in the first editorial of the magazine's fifty-year history—at least the first so labeled—called on him to "give up the Presidency rather than do further damage to the country." The same suggestion has been advanced by newspapers which, only a little more than a year ago, were unreservedly advocating his re-election and which, only months ago, were minimizing the gravity of the Watergate disclosures; by Republican politicians who fear, not without justification, that the President is now an intolerable burden to their party; by businessmen who no longer can vest their confidence in Mr. Nixon as the chosen instrument of corporate prosperity.

Mr. Nixon would derive some obvious benefits if he were to heed this advice and relinquish his office. Unlike his recently departed Vice President, Spiro T. Agnew, he would not have to couple his resignation with a guilty plea to any crime. Like Mr. Agnew, he could continue to proclaim his innocence—and to denounce his "enemies"—in

perpetuity. He has always relished the role of victim, and he could carry it to oblivion.

At the same time, the Congress would be spared from exercising a responsibility which it clearly does not welcome—the responsibility of impeaching the President of the United States. And the American people, the people who only a year ago gave the President an unprecedented mandate and whose disenchantment has now reached unprecedented depths, could breathe a deep sigh and go about the business of restoring a measure of order and hope to their national affairs.

But the decision to resign is, ultimately, the President's alone to make, and the word from the White House at this writing is that he will not be moved (or removed). He has "no intention whatever of walking away from the job I was elected to do," he told the nation on November 7.

It is our judgment, and we believe it is the American people's judgment, that the job he has done is enough.

Until and unless the President changes his mind about resigning, the decision to resolve the crisis that grips the nation will be ours to make—for only by exerting immense and unremitting pressure can we convince the Congress that it must discharge its constitutional responsibility. Public opinion has already persuaded some legislators to abandon their customary vacillating stance. Public opinion, forcefully applied, can move the requisite number of Representatives to embark on the process of impeachment.

The first order of business confronting Congress is to fill the vacancy in the Vice Presidency. Mr. Nixon's designee, Representative Gerald R. Ford of Michigan, would hardly be our first (or thousandth) choice; he is, in our view, unsuited intellectually and politically to hold the nation's highest office. But given the choice—and it is the choice we are given—between mediocrity (Mr. Ford) and moral disgrace (Mr. Nixon), we have no difficulty choosing the former. America has muddled through with mediocre leadership before, but it cannot go on much longer with leadership that is morally bankrupt.

Once a Vice President has been installed, the "engine of impeachment"—James Madison's term—can be set in motion. It is an engine that the leaders of the House and Senate clearly would prefer not to start, but it can be ignited by any member of the House of Representatives who chooses to take the floor and declare: "Mr. Speaker, I rise to a question of constitutional privilege. . . . I impeach Richard M. Nixon, President of the United States, for high crimes and misdemeanors."

RESOLUTION

Whereas there is substantial evidence of President Richard M. Nixon's violation of his oath of office, the Constitution and laws of the United States, and his unlawful usurpation of power: Now, therefore be it

Resolved, That President Richard M. Nixon be impeached for high crimes and misdemeanors under article II, section 4, of the Constitution of the United States; and be it further

Resolved, That the articles agreed to by this House, as contained in this resolution, be exhibited in the name of the House and of all the people of the United States, against Richard M. Nixon, President of the United States, in maintenance of the impeachment against him of high crimes and misdemeanors in office, and be carried to the Senate by the managers appointed to conduct the said impeachment on the part of the House.

Articles exhibited by the House of Representatives of the United States, in the name of themselves and all the people of the United States, against Richard M. Nixon, President of the United States, charging him with high crimes and misdemeanors in office.

ARTICLE I

That Richard M. Nixon, President of the United States, through his personal acts and those of his appointees and aides, has fostered, tolerated, and attempted to conceal the worst political scandals in this nation's history, thereby paralyzing the Government, inviting the contempt of the American people, and casting discredit on our country and its leadership throughout the world.

ARTICLE II

That he is, and must be held accountable for the crimes committed by many of his subordinates, for it is his responsibility, as Madison observed, "to superintend their conduct so as to check their excesses." If he was aware of their offenses, he is criminally culpable; if he was unaware, he is criminally inept.

ARTICLE III

That he has attained and retained the high office he now holds through the use of illegal means, to wit: His agents have extracted secret and unlawful campaign contributions from various special interests in return for pledges of favorable government action in their behalf; they have authorized and commissioned snoopers and second-story men, styled "plumbers," to burglarize and spy on his political opponents, in violation of the common criminal statutes; they have hired saboteurs to employ various "dirty tricks" to disrupt a political campaign.

ARTICLE IV

That he has attempted to undermine, circumvent, or annul the guarantees of the Bill of Rights—particularly the rights to privacy, freedom of speech, and freedom of the press—by: mounting an unprecedented campaign of harassment and vilification against the media of news and information; employing illegal wiretaps to spy on journalists and critics of his Administration; encouraging his aides to devise means of intimidating the media by use of governmental powers; embarking on political trials designed to silence those who dissented from his policies.

ARTICLE V

That he has arrogated to himself powers not conferred by the Constitution, or powers expressly reserved to Congress, to wit: He has secretly, illegally, and deceptively ordered the bombing of a nation—Cambodia—without the knowledge or consent of the American people and their elected representatives; he has unlawfully impounded Federal funds totaling many millions of dollars that were duly appropriated by Congress in legislation he himself had signed; he has invoked a nebulous and dubious doctrine of "executive privilege" to withhold from the people information about the people's business.

ARTICLE VI

That he has employed fraudulent schemes to muster—or create an appearance of—public support for his Administration's major policies, especially with respect to the unlawful invasion and bombing of Cambodia. These schemes have involved the placement of newspaper advertisements concocted in the White House, the generation of inspired letters and telegrams of support, and the manipulation of public opinion polls.

ARTICLE VII

That he and his associates have conspired in sundry schemes to obstruct justice by: attempting to withhold evidence in criminal cases pertaining to the Watergate Affair; dismissing the Special Prosecutor, Archibald Cox, when he proved determined to do his job; tendering bribes to defendants and witnesses to induce them to remain silent or offer perjured testimony; persuading the former director of the FBI to destroy evidence; invoking "non-existing conflicts with CIA operations" to thwart an FBI inquiry; attempting to influence the judge in the Pentagon Papers trial; ordering the Attorney General not to press a series of antitrust actions against the International Telephone and Telegraph Corporation.

ARTICLE VIII

That he has subverted the integrity of various Federal agencies by sanctioning efforts to: bring about a reversal of the Agriculture Department's policy on dairy price supports to accommodate major campaign contributors; involve the CIA and the FBI in unlawful operations associated with the operations of the "plumbers;" exert pressure on independent regulatory agencies to hand down decisions favorable to his friends and supporters; employ the Internal Revenue Service to punish his "enemies."

ARTICLE IX

That he has conducted his personal affairs in a manner that directly contravenes the traditional Presidential obligation to demonstrate "moral leadership," to wit: He has used substantial amounts of the taxpayers' money to pay for certain improvements and maintenance of his private homes—expenditures that can in no way be related to security requirements or any other public purpose; he has taken advantage of every tax loophole permitted by law—and some of doubtful legality—to diminish his own tax obligations; he has entered into questionable arrangements with his friends to acquire large personal property holdings at minimal cost to himself; he has publicly and emphatically defended one of these friends, C. G. (Bebe) Rebozo, at a time when various Federal agencies were conducting supposedly impartial investigations into his financial affairs.

ARTICLE X

That he has attempted to deceive the American people with respect to virtually every particular cited in this Bill of Impeachment, by withholding information and evidence; by misstating the facts when they could no longer be totally suppressed; by constantly changing his version of the facts, so that the people could no longer place any credibility whatever in statements emanating from the Chief Executive of their Government, to the point where it now seems doubtful that he would be believed even if he were to begin, miraculously, to tell the truth.

HEALTH CURES ARE NOT THROW-AWAYS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. CAREY) is recognized for 5 minutes.

Mr. CAREY of New York. Mr. Speaker, today in America there are over 100,000 sufferers from hemophilia—100,000 Americans, young and old, who cannot live the kind of active, productive, and secure life you and I and our children are privileged to live. These 100,000 of our fellow citizens live in a kind of physical limbo, never knowing when next they may be struck with crippling pain and possible death. For the hemophiliac routine dental care is extremely dangerous—surgery can be fatal.

The efforts in research for cancer and heart disease have been accelerated in the past several years. We expect to be spending close to a billion dollars a year in seeking to conquer cancer alone. This is not only necessary and good, it is the least the world, and the civilizations this

globe bears, should expect from a Nation whose wealth and power have been the wonder of the world.

But Mr. Speaker, there is no need to look further for a cure to hemophilia. While research is needed, and needed very badly, to improve the therapeutic agent and to make it more effective and available, still the treatment cure is now in our hands. We have it in hand and it works. A parallel can be drawn between the effectiveness of insulin in the treatment of diabetics, and the effectiveness of Factor VIII in the treatment of hemophiliacs.

Yet, the parallel between Factor VIII and insulin collapses when you discuss availability. Insulin is affordable to the average family; treatment for the hemophiliac with Factor VIII costs approximately $6,000 per year. Obviously, the average family cannot afford to pay this $6,000 per year—a small amount when you realize it permits a hemophiliac to live a normal life, but such a large amount when it means draining the economic life from a whole family, depriving other children of higher education, cutting off the family from pleasures and educational experiences they cannot ever afford, plaguing the parents and the child with needless guilt.

That is why I say to this honorable House that we must not permit the scientific breakthrough that controls hemophilia to become a "throw-away." We must not and cannot see the lives of these Americans thwarted because the economic means are not to be found in the private sector to permit these Americans to live sound and productive lives—contributing to the economic and social mainstream of the Nation and their neighborhoods.

Mr. Speaker, it is for this reason that today I introduce legislation to make treatment available to every hemophiliac, to stimulate scientific research to make this treatment accessible without any outside financial assistance, and to help assure that these Americans are able to live lives of self-respect and self-support.

Hearings are scheduled to begin tomorrow on companion legislation in the Senate before the Health Subcommittee, chaired by Senator KENNEDY. I am pleased to join with the distinguished chairman of the Senate Labor and Public Welfare Committee, Senator WILLIAMS, in introducing the Hemophilia Act of 1973.

It is my understanding that early next year, the distinguished chairman of the House Public Health and Environment Subcommittee, Congressman ROGERS, plans to hold hearings on the Nation's needs for a coordinated and more efficient blood-collecting, processing and distribution policy and system.

I am pleased to hear that the legislation I introduce today will be part of the subject matter considered at these hearings. I find this very gratifying, not only because of my determination to push for passage of hemophilia legislation, but because the legislation I introduce today, through its provisions for treatment and fractionating centers, can make a signal contribution to whatever national policy and system Chairman Rogers and the Subcommittee on Health devise.

Mr. Speaker, just a few moments ago, I was privileged to meet and host a luncheon for the Hemophilia Poster Child. Andrew Thorne, the 7-year-old son of Mr. and Mrs. Lawrence Thorne of Upper Saddle River, N.J., and his brother Stephen, and sister Suzanne, visited the Capitol with their parents today, and were able to spend some time visiting with me and other Members of Congress.

I welcome Andrew Thorne, the Hemophilia Poster Child to the Nation's Capitol. I am sure I express the feelings of the entire membership of the House when I wish Andrew and his brother, Stephen, who is also a hemophiliac, the best of everything. And, clearly, Mr. Speaker, the legislation I introduce today will help make that possible not only for Andrew and Stephen, but for the tens of thousands of young boys across the Nation, who will be able to live and grow as your son and my sons are able to live and grow.

Mr. Speaker, at this point in the RECORD I include the text of the bill:

H.R. 11479

A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Hemophilia Act of 1973".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) Congress finds and declares—

(1) that there are a significant number of individuals residing in the United States who suffer from hemophilia;

(2) that there exists today the technology and the skills to enable such individuals to lead productive lives;

(3) that the high cost of such technology and skills are in most cases denying the benefits of such advances to individuals suffering from hemophilia.

(b) It is therefore the purpose of this Act to guarantee individuals suffering from hemophilia their entitlement to care commensurate with the technology and skills that are available.

SEC. 3. Title XI of the Public Health Service Act (42 U.S.C. 201) is amended by adding at the end thereof the following new part:

"PART C—HEMOPHILIA PROGRAMS

"DEFINITIONS

"SEC. 1121. As used in this part the term—

"(1) 'hemophilia diagnostic and treatment center' means an entity which provides the following:

"(A) access for all individuals suffering from hemophilia who reside within the geographic area served by the center;

"(B) programs for the training of professional and paraprofessional personnel in hemophilia research, diagnosis, and treatment;

"(C) a program for the diagnosis and treatment of individuals suffering from hemophilia who are being treated on an outpatient basis;

"(D) a program for association with providers of health care who are treating individuals suffering from hemophilia in areas not conveniently served directly by such center but which is more convenient (as determined by the Secretary) than the next geographically closed center;

"(E) programs of social and vocational counseling for individuals suffering from hemophilia;

"(F) individualized written programs for each person treated by or in association with such center; and

"(G) complies with guidelines for treatment established by the National Hemophilia Advisory Board, under this part.

"ENTITLEMENT TO TREATMENT

"SEC. 1122. (a) Any individual suffering from hemophilia may file a claim for benefits under this part with the Secretary in such form and containing such information as he may reasonably require.

"(b) Benefits under this part shall be paid to, or on behalf of a claimant, in an amount equal to 100 per centum of the actual cost of providing blood, blood products, and services associated with the treatment of hemophilia, less—

"(1) amounts payable by third parties (including governmental agencies), and

"(2) amounts determined by the Secretary (in accordance with subsection (c)) to be payable by the individual suffering from hemophilia.

"(c) In determining the amount which may be payable under subsection (b) (2) the Secretary, after consultation with the Secretary of the Treasury, shall establish a schedule of cost sharing by such individual based upon the adjusted gross income of such individual.

"(d) Any claim submitted under this part shall contain a certification that treatment provided to the claimant is in accord with the guidelines promulgated by the National Hemophilia Advisory Board pursuant to the authority granted under this Act.

"(e) There are authorized to be appropriated for the fiscal years beginning July 1, 1973, and ending June 30, 1976, such sums as may be necessary to carry out the purposes of this section.

"TREATMENT CENTERS

"SEC. 1123. (a) The Secretary shall provide for the establishment of no less than fifteen new centers for the diagnosis and treatment of individuals suffering from hemophilia.

"(b) (1) In carrying out the purposes of subsection (2) the Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities for projects for the establishment of hemophilia diagnostic and treatment centers as defined in section 1121.

"(2) No grant or contract may be made under this part unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner and contain such information as the Secretary shall by regulation prescribe.

"(3) An application for a grant or contract under this part shall contain assurances satisfactory to the Secretary that the applicant will serve the maximum number of individuals that its available and potential resources will enable it to effectively serve.

"(c) In establishing such centers the Secretary shall—

"(1) take into account the number of persons to be served by the program supported by such center and the extent to which rapid and effective use will be made of funds by such center; and

"(2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(e) There are authorized to be appropriated to carry out the purposes of this section $5,000,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1124. The Secretary shall establish a program within the Public Health Service to provide for diagnosis, treatment, and counseling of individuals suffering from hemophilia. Such program shall be made available through the facilities of the Public Health Service to any individual requesting diagnosis, treatment, or counseling for hemophilia.

"BLOOD FRACTIONATION CENTERS

"SEC. 1125. (a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals to establish blood fractionation centers, for the purpose of fractionating and making available for distribution blood and blood products, in accordance with regulations prescribed by the Secretary to hemophilia treatment and diagnostic centers.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1974, $10,000,000 for the fiscal year ending June 30, 1975, and $15,000,000 for the fiscal year ending June 30, 1976.

"ADVISORY BOARD FOR HEMOPHILIA TREATMENT STANDARDS

"SEC. 1126. (a) There is hereby established in the National Institutes of Health a National Hemophelia Advisory Board (hereinafter in this section referred to as the 'Board') to be composed of twenty members as follows:

"(1) the Secretary and the Director of the National Institutes of Health; and

"(2) Eighteen members appointed by the President.

The persons appointed to the Board shall be appointed from among persons who are among the leading scientific or medical authorities outstanding in the study, diagnosis, or treatment of hemophilia or in fields related thereto.

"(b)(1) Appointed members shall be appointed for six-year terms, except that of the members first appointed, six shall be appointed for a term of two years, and six shall be appointed for a term of four years, as designated by the President at the time of appointment.

"(2) Any member appointed to fill a vacancy occurring prior to expiration of the term for which his predecessor was appointed shall serve only for the remainder of such term. Appointed members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

"(3) A vacancy in the Board shall not affect its activities, and eleven members thereof shall constitute a quorum.

"(4) The President shall designate one of the appointed members to serve as Chairman for a term of two years. The Board shall meet at the call of the Chairman, but not less often than four times a year.

"(c) The Board may hold such hearings, take such testimony, and sit and act at such times and places as the Board deems advisable to investigate programs and activities conducted under this part.

"(d) Members of the Board who are not officers or employees of the United States shall receive for each day they are engaged in the performance of the duties of the Board compensation at rates not to exceed the daily equivalent of the annual rate in effect for GS–18 of the General Schedule, including traveltime; and all members, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703, title 5, United States Code, for persons in the Government service employed intermittently.

"(e) The Director of the National Institutes of Health shall make available to the Board such staff, information, and other assistance as it may require to carry out its activities.

"FUNCTIONS OF THE BOARD

"SEC. 1127. It shall be the function of the Board to (1) establish guidelines for the diagnosis and treatment of persons suffering from hemophilia; and (2) submit a report to the President for transmittal to the Congress not later than January 31 of each year on the scope of activities conducted under this part.

"RECORDS AND AUDIT

"SEC. 1128. (a) Each recipient of a grant or contract under this part shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant or contract, the total cost of the project or undertaking in connection with which such grant or contract is made or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such records as will facilitate an effective audit.

"(b) The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of any grant under this title which are pertinent to any such grant.".

ADMINISTRATION SPOKESMEN DISPLAY LACK OF DIRECTION ON ENERGY POLICY OR: WHO'S IN CHARGE DOWN THERE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. FULTON) is recognized for 5 minutes.

Mr. FULTON. Mr. Speaker, yesterday I spoke to my colleagues about the need for leadership, contingency preparations, and careful planning to meet the current fuel emergency and future energy supply problems.

Today I read in the evening paper the following statements from leading administration spokesmen:

Mr. Herbert Stein, Chairman of the Council of Economic Advisers, is reported as saying we need sharp fuel price increases and new taxes to relieve the energy shortage.

Mr. Melvin Laird, the President's Chief Domestic Adviser, is quoted as saying Tuesday that we need fuel rationing and a tax system that would give the proper incentive for energy conservation.

Mr. George Shultz, the Treasury Secretary, says rationing should be used only as a last resort and that "if we are intelligent about it—rationing—we should be able to avoid it."

In the meantime Gov. John Love, the President's Energy Adviser, says he believes rationing will be necessary but he does not know when.

Mr. Speaker, is there any wonder that the people of this Nation are confused, concerned, and growing irate about this energy mess?

The administration is not only not speaking with one voice on this emergency it is not even speaking with two or three voices.

I suppose the best assessment of this demonstrated and flagrant lack of policy was given yesterday by Mr. Bob R. Dorsey, president and chief executive officer of the Gulf Oil Corp. While the statement was not made in the context of reply to these statements cited above I believe it is most appropriate. Mr. Dorsey said:

If we are deprived of Mideast oil to take care of growth, it will take us 10 years to develop the nuclear plants, the coal mines—that's the horrible thing. I don't think the public realizes the gravity of the situation today and the possible gravity of the situation 10 to 15 years from now.

Anytime we start, we've got a 10-year program in front of us, and we haven't started yet. We won't start it until the public and the federal government believe that. Mr. Dorsey added, and I don't think the federal government believes it yet.

Nor do I believe the Federal Government believes it yet, Mr. Speaker, at least the executive branch. There is no unanimity of opinion downtown as to how to meet the current challenge. There is not even unanimity of opinion as to how to approach the problem.

As I said yesterday—

It is my fervent hope that the Administration will finally learn that meeting the fuel emergency requires more than asking America to turn down its thermostats and to drive 50 miles an hour. It requires long and careful planning. It requires contingency programs and it requires leadership.

The need for these is just as great today and, judging from the statements in today's news, it is still unfilled.

DRINAN SUPPORTS AID TO ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

Mr. DRINAN. Mr. Speaker, the request of the President for emergency aid in the amount of $2.2 billion for Israel cannot and must not be delayed.

Despite the fact that Israel has been "victorious" in the recent tragic war the grim reality is that Israel now confronts problems perhaps more severe than at any moment in the 25-year history of this heroic nation.

Among the severe problems confronting Israel are the following:

First. In the recent conflict the number of nations that lined up against Israel is appalling. Among them were the Warsaw Pact nations, all Moslem countries, India, and several other Asian and African nations. The Government of mainland or Red China lent uncritical support to the onslaught of the Soviet Union which, of course, must have been the prime force in planning the date, the strategy, and the unprovoked assaults by Egypt and Syria on October 6, Yom Kippur.

Second. In addition to the hostility of at least two-thirds of humanity, Israel's traditional friends in Europe have adopted a policy of neutrality. The Common Market nations, anxious about the oil from Arab States, gave the impression that they would be prepared to allow Israel to go down to defeat rather than

jeopardize their sources of oil in Arab nations.

Third. Israel could not secure replacement parts for Centurion tanks from England nor could she obtain equipment for Mirage jets from France. In addition Yugoslavia allowed Soviet military transports to refuel on Yugoslavian soil while Spain denied similar requests for U.S. military planes to refuel in that nation. Only Portugal gave some assistance to the United States as it transported to Israel on an emergency basis military equipment worth almost $1 billion.

Fourth. During the recent war one-half of all the nations of the world blamed Israel for starting the 1973 war when it was overwhelmingly clear that Egypt and Syria were the clear aggressors.

Fifth. As Israel mourned for the 1,854 Israeli soldiers who died in the war it became clearer every day that the Soviet involvement in the war of 1973 was even greater than the participation of the U.S.S.R. in the 6-day war in 1967. The massive intervention of Russia in the war that began on October 6, was novel even by Soviet patterns. It is also very clear that Russia has continued to furnish military equipment to the Arab nations even after the cease-fire.

Sixth. In the Security Council, Israel finds a body of 15 nations, 8 of which do not even have diplomatic relations with Israel. Two of these nations—the U.S.S.R. and mainland China—always vote against any resolution unless it has the full support of the Arab States.

In the United Nations there are 12 members of the Soviet bloc, 18 of the Arab bloc, 41 in the African bloc, and 75 in the nonalined group. Each of these blocs takes an anti-Israel position. In addition, the Arab bloc can also dominate the 41 African votes because it provides financial assistance to the Africans. The nonalined group of nations has a voting record that is so consistently against the United States that it practically conforms with the voting pattern of the Soviet bloc in its stand against Israel.

As a result, Israel can count only on the votes of a handful of northern and western European countries along with a few Latin American and Asian countries with Australia.

This contemporary situation is entirely different from the picture some years ago when Israel was looked upon in the family of nations as a young and hard-working country that was struggling to win its liberation.

In recent years African countries, yielding to Arab pressures, have reluctantly broken off relations with Israel. Liberia and Kenya were the latest to yield. At this time Israel has 5 diplomatic nations in black Africa whereas 18 months ago Israel had formal diplomatic nations in 31 African nations.

Seventh. The oil lobby in America and, indeed, in the entire world continues to be critical of Israel. In the United States where the oil lobby has access to the highest level of Government it has experienced a new strength by the manufactured link between the Arab-Israeli conflict and the oil shortage.

Texaco, Mobil, and other oil companies have sought to link the energy crisis with the Arab-Israel war and are subtly working to modify or even reverse the bipartisan commitment which the Congress of the United States has always implemented toward Israel since 1948.

It is significant to note that Egypt and Kuwait are members of GATT—General Agreement on Tariffs and Trade—and thus subscribe to article 11 of GATT which states that—

> No prohibitions or restrictions other than duties, taxes or other charges . . . shall be instituted or maintained by any contracting party on the importation of any product or on the exportation or sale of any product destined for the territory of another contracting party.

Although Saudi Arabia and Iraq are not members of GATT the United States has treaties of friendship with Saudi Arabia and Iraq going back, respectively, to 1933 and 1940. Discriminatory boycotts violate at least the spirit and probably the letter of these treaties. In addition a resolution adopted by the U.N. General Assembly in 1970 spells out the friendly relations and cooperations which nations adhering to the United States should follow. The resolution states that—

> No state may use or encourage the use of economic, political or any other type of measures to coerce another state in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it advantages of any kind.

I have yet to see any reference by commentators to the illegality of the threatened embargo on oil by the Arab nations.

Eighth. The recent war cost Israel an estimated $7.1 billion. This sum is astronomical when one considers that the entire annual budget of the small State of Israel comes to $5 billion.

The direct and indirect loss to Israel is, moreover, also astronomical. Israel was compelled to mobilize 35 percent of its labor force during the recent war. Building activity came to a halt. Tourism, a major industry in Israel, fell off catastrophically. Israel's annual growth rate which prior to the war had averaged 9.9 percent over the years will in the present fiscal year be substantially reduced. Complicating the export-import problems of Israel this nation is now under an Arab blockade which cuts off access to the Indian Ocean and to the Orient.

There are many reasons in addition to the above, Mr. Speaker, why the Congress should act promptly to guarantee the $2.2 billion grant to Israel. If this sum proposed in H.R. 11088 is enacted for Israel it will be the first substantial sum ever given by the United States to Israel for military purposes. It is astonishing, Mr. Speaker, that between 1946 and 1972, according to the Agency for International Development—AID—the United States provided to foreign countries grants and military assistance totaling approximately $55 billion. None of this grant military assistance ever went to Israel.

What does détente mean after what Russia did to Israel in October 1973?

It is self-evident that the Arab nations would never have started the recent war unless they had Soviet support and encouragement, Soviet training and equipment, and Soviet diplomatic backing. The Soviets, in short, have provided the weapons, the incentive, and the powder keg. Since 1970, the Soviet Union has engaged in one of the largest military buildups in its entire history. A constant flow of tanks, aircraft, missiles, and guns has been directed at Egypt and Syria. All of this was clearly in violation of the agreement entered into on August 7, 1970, between the United States, the Soviet Union, Egypt, and Israel.

That agreement stipulated that none of the parties to the agreement would introduce any new military installations in a zone extending 30 miles on either side of the Suez Canal. That agreement was broken almost immediately after it was entered into by the placing of surface-to-air missiles in forbidden places. The Israeli Air Force paid a high price in the recent war for the failure of the United States to insist that Egypt and the Soviet Union adhere to the terms of the agreement which they made in August of 1970. It would seem that the Russians by the illegal buildup of SAM's sought to bring about circumstances that would leave the Soviets in possession of the Suez Canal. The Russian objective was presumably to make the Suez Canal a highway for the Soviet navy and merchant fleet.

One of the fundamental purposes of the proposed $2.2 billion grant for Israel is to inform the Arab nations and the Soviet Union that Israel will remain militarily invulnerable and that any further attempt by the Arab nations, armed to the teeth with sophisticated military hardware from Russia, will end in disaster for the aggressors.

The proposed $2.2 billion to Israel will be a sign to the Soviet Union that we want détente but at the same time we are making it unmistakably clear that we expect to continue to assist Israel to retain defensible borders and to keep itself invulnerable to any external attack. The $2.2 billion would state categorically to Russia that we will not allow the Soviet Union to continue to rush missiles into the Suez area and to transform the Middle East into a shooting gallery where the Jewish people and the State of Israel are used as a target for the testing of the most sophisticated weapons. The $2.2 billion proposed for Israel would signify a thunderous proclamation to Russia that the United States is not going to allow the U.S.S.R. to consolidate its territorial gains in the Middle East just as it conquered and subjugated the countries of Eastern Europe during and after World War II.

Israel's war of 1973 demonstrates once again overwhelmingly that Israel is a an enormous strategic disadvantage because it has so little space for a nation surrounded by neighbors who openly swear to destroy it. Prior to 1967, Egyptian forces were within 10 minutes walking distance of Israeli villages; today they are at least 250 miles away. Prior to 1967, the Jordanian army was 10 minutes from Tel Aviv and was actually inside Jerusalem. Today Jordan's nearest

troops are 55 miles from Tel Aviv and 25 miles from Jerusalem. Prior to 1967, the borders between Israel and Arab nations that were dangerous to Israeli citizens totalled 350 miles; today these borders number 185 miles. Prior to 1967, virtually all of Israel was within enemy artillery range; today no significant part of Israel can be reached by enemy artillery group

It is understandable, therefore, that Israel is resisting pressures to withdraw to its pre-1967 borders or to the pre-1973 borders.

The Government and the people of Israel would be delighted to withdraw from the burdens of the vast lands which they have occupied in the wars of 1967 and 1973. But Israel knows that Egypt has some 220 Russian-supplied Mig–21 interceptors, 120 Su–7 fighter bombers, 180 helicopters, and at least 130 surface-to-air missile batteries. On the other side of Israel, Syria has about 30 Su–7 fighter bombers, 100 Mig–29 interceptors, and 8 surface-to-air missiles.

In addition to all of these hideous weapons Israel knows that the armies of Saudi Arabia, Jordan, and Lebanon, when combined with the armies of Egypt and Syria, bring the vast army that surrounds Israel to about 500,000 ground troops.

Mr. Speaker, Israel needs assistance in the immediate future. I hope that the Congress will furnish this assistance even before all of the Israel POW's are returned along with the POW's from the Arab nations. At this time Egypt holds about 350 Israel prisoners while Syria has approximately 130. According to an official Israel defense spokesman Israel holds 8,239 prisoners of war from Egypt, Syria, Iraq, and Morocco.

There is ghastly evidence that Syria and Egypt are not complying with the 1949 Geneva Convention with respect to the humane treatment of prisoners of war. The Soviet Union appears to have repudiated its agreement with the United States to the effect that an immediate exchange of POW's would be carried out after the cease-fire. It is lamentable that the Soviet Union was the sole country among the 15 members of the Security Council to block a statement on behalf of the Security Council President and the U.S. Secretary General calling for the cooperation of all parties with the International Red Cross regarding the POW's.

The agonizing question of the POW's is but one of the several problems besetting Israel at this time. As this nation of 3 million seeks to return to normalcy and to prepare for its general elections on December 31, 1973, it deserves to have, and I hope that it will have, a commitment by the United States that, despite the abandonment of Israel by so many nations of the Earth, the United States will continue and, in fact, deepen the commitment which this Nation has had to Israel since its establishment in 1948. I hope, Mr. Speaker, that Congress can demonstrate its continued commitment to Israel by enacting prior to the adjournment of Congress on December 15, 1973, the President's proposed grant of $2.2 billion for Israel.

U.S. DISTRICT COURT RULES COX'S DISMISSAL ILLEGAL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Ms. ABZUG) is recognized for 10 minutes.

Ms. ABZUG. Mr. Speaker, this afternoon Judge Gerhard A. Gesell of the U.S. district court for the District of Columbia ruled favorably in a lawsuit filed by Ralph Nader, Senator FRANK E. Moss, Congressman JEROME R. WALDIE, and myself against Acting Attorney General Robert Bork for his dismissal of Special Prosecutor Archibald Cox. The court noted that Mr. Cox served subject to congressional rather than Presidential control, and that Congress had the power to limit the circumstances under which Mr. Cox could be discharged and to delegate that power to the Attorney General.

As for Mr. Bork's abolition of the Office of Special Prosecutor on October 23 only to reinstate it less than 3 weeks later, Judge Gesell stated:

> It is clear that this turnabout was simply a ruse to permit the discharge of Mr. Cox without otherwise affecting the Office of the Special Prosecutor—a result which could not legally have been accomplished while the regulation was in effect under the circumstances presented in this case. Defendant's Order revoking the original regulation was therefore arbitrary and unreasonable, and must be held to have been without force or effect.

This decision represents an impressive victory for all the American people who were gravely shocked and disturbed at the resignations of former Attorney General Elliot Richardson, Deputy Attorney General William Ruckelshaus, and the arbitrary discharge of Mr. Cox, all precipitated by a President who considers himself above the law. Since Mr. Cox's dismissal, I have received thousands of letters, telegrams, and phone calls demanding the impeachment of the President for this illegal act. Resolutions calling for the impeachment of the President or calling for an inquiry into impeachment have been submitted by a number of Representatives, including myself, citing the dismissal of Cox as an impeachable offense. Today, the court has ruled that Cox's dismissal was indeed illegal. This decision should leave no doubt in the minds of Members of Congress and the American people that serious grounds for impeachment do, in fact, exist, and should hasten the Judiciary Committee's reporting out a bill of impeachment.

This decision also makes it imperative that the Congress defer action on the nomination of Congressman FORD as Vice President until such time as the Congress decides one way or another on impeachment. It would be unthinkable that, if a simultaneous vacancy does come into being, the American people should be governed by an appointed Chief Executive. The Congress should therefore defer action on the nomination, and enact legislation creating a special Presidential vacancy.

I insert the full text of Judge Gesell's memorandum and order in the RECORD:

[In the United States District Court for the District of Columbia, Civil Action No. 1954–73]

RALPH NADER, SENATOR FRANK E. MOSS, REPRESENTATIVE BELLA S. ABZUG AND REPRESENTATIVE JEROME R. WALDIE, PLAINTIFFS, VERSUS ROBERT H. BORK, ACTING ATTORNEY GENERAL OF THE UNITED STATES, DEFENDANT

MEMORANDUM

This is a declaratory judgment and injunction action arising out of the discharge of Archibald Cox from the office of Watergate Special Prosecutor. Defendant Robert H. Bork was the Acting Attorney General who discharged Mr. Cox. Plaintiffs named in the Amended Complaint are as listed above.

Some issues have already been decided. The matter first came before the Court on plaintiff's motion for preliminary injunction and a request that the trial of the action on the merits be consolidated with the preliminary injunction pursuant to Rule 65(a) of the Federal Rules of Civil Procedure. Defendant filed opposition papers, and a hearing was held on the detailed affidavits and briefs filed by the parties. The Court determined that the case was in proper posture for a determination on the merits at that time.

All injunctive relief requested in the proposed preliminary injunction tendered at the hearing and in the Amended Complaint was denied from the bench. The effect of the injunctions sought would have been to reinstate Mr. Cox as Watergate Special Prosecutor and to halt the Watergate investigation until he had reassumed control. It appeared to the Court that Mr. Cox's participation in this case was required before such relief could be granted. *See* Rule 19(a) of the Federal Rules of Civil Procedure. Yet Mr. Cox has not entered into this litigation, nor has he otherwise sought to be reinstated as Special Prosecutor. On the contrary, his return to prior duties at Harvard has been publicly announced. Moreover, a new Watergate Special Prosecutor was sworn in on November 5, 1973, and the Court felt that the public interest would not be served by placing any restrictions upon his on-going investigation of Watergate-related matters.

Plaintiffs continue to press for a declaratory judgment on the only remaining issue to be resolved: the legality of the discharge of Mr. Cox and of the temporary abolition of the Office of Watergate Special Prosecutor. To this end, it must initially be determined whether plaintiffs have standing and whether a justiciable controversy still exists.

Defendant Bork contends that the congressional plaintiffs lack standing[1] and that the controversy is moot. This position is without merit. The discharge of Mr. Cox precipitated a widespread concern, if not lack of confidence, in the administration of justice. Numerous bills are pending in the Senate and House of Representatives which attempt to insulate the Watergate inquiries and prosecutions from Executive interference, and impeachment of the President because of his alleged role in the Watergate matter—including the firing of Mr. Cox—is under active consideration.[2] Given these unusual circumstances, the standing of the three congressional plaintiffs to pursue their effort to obtain a judicial determination as to the legality of the Cox discharge falls squarely within the recent holding of the United States Court of Appeals for the District of Columbia Circuit in *Mitchell* v. *Laird*, No. 71–1510 (D.C. Cir. March 20, 1973). Faced with a challenge by a group of congressmen to the legality of the Indo-China War, the Court recognized standing in the following forceful terms:

"If we, for the moment, assume that defendants' actions in continuing the hostilities in Indo-China were or are beyond the authority conferred upon them by the Con-

Footnotes at end of article.

stitution, a declaration to that effect would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, such as raising an army or enacting other civil or criminal legislation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint. . . ." *Id.* at 4.

Unable to distinguish this holding, defendant Bork suggests that the instant case has been mooted by subsequent events and that the Court as a discretionary matter should refuse to rule on the legality of the Cox discharge. This view of the matter is more academic than realistic, and fails to recognize the insistent demand for some degree of certainty with regard to these distressing events which have engendered considerable public distrust of government. There is a pressing need to declare a rule of law that will give guidance for future conduct with regard to the Watergate inquiry.

While it is perfectly true that the importance of the question presented cannot alone save a case from mootness, *Marchand* v. *Director, United States Probation Office*, 421 F.2d 331, 333 (1st Cir. 1970), the congressional plaintiffs before the Court have a substantial and continuing interest in this litigation. It is an undisputed fact that pending legislation may be affected by the outcome of this dispute and that the challenged conduct of the defendant could be repeated with regard to the new Watergate Special Prosecutor if he presses too hard,[3] an event which would undoubtedly prompt further congressional action. This situation not only saves the case from mootness, *see United States* v. *Concentrated Phosphate Export Assoc.*, 393 U.S. 199, 203–04 (1968); *Friend* v. *United States*, 388 F.2d 579 (D.C. Cir. 1967), but forces decision. The Court has before it an issue that is far from speculative and a strong showing has been made that judicial determination of that issue is required by the public interest. Under these circumstances, it would be an abuse of discretion not to act.

Turning then to the merits, the facts are not in dispute and must be briefly stated to place the legal discussion in the proper context.

The duties and responsibilities of the Office of Watergate Special Prosecutor were set forth in a formal Department of Justice regulation,[4] as authorized by statute.[5] This regulation gave the Watergate Special Prosecutor very broad power to investigate and prosecute offenses arising out of the Watergate break-in, the 1972 Presidential election, and allegations involving the President, members of the White House staff or presidential appointees. Specifically, he was charged with responsibility to conduct court proceedings and to determine whether or not to contest assertions of Executive privilege. He was to remain in office until a date mutually agreed upon between the Attorney General and himself, and it was provided that "The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part."

On the same day that this regulation was promulgated, Archibald Cox was designated as Watergate Special Prosecutor.[6] Less than four months later, Mr. Cox was fired by defendant Bork. It is freely admitted that he was not discharged for an extraordinary impropriety.[7] Instead, Mr. Cox was discharged on the order of the President because he was insisting upon White House compliance with a Court Order which was no longer subject to further judicial review. After the Attorney General had resigned rather than fire Mr. Cox on this ground and the Deputy Attorney General had been discharged for refusing to do so, defendant Bork formally dismissed Mr. Cox on October 20, 1973, sending him the following letter: [8]

DEAR MR. COX: As provided by Title 28, Section 508(b) of the United States Code and Title 28, Section 0.132(a) of the Code of Federal Regulations, I have today assumed the duties of Acting Attorney General.

In that capacity I am, as instructed by the President, discharging you, effective at once, from your position as Special Prosecutor, Watergate Special Prosecution Force.

Very truly yours,

ROBERT H. BORK,
Acting Attorney General.

Thereafter, on October 23, Mr. Bork rescinded the underlying Watergate Special Prosecutor regulation, retroactively, effective as of October 21.[9]

The issues presented for declaratory judgment are whether Mr. Cox was lawfully discharged by defendant on October 20, while the regulation was still in existence, and, if not, whether the subsequent cancellation of the regulation lawfully accomplished his discharge. Both suppositions will be considered.

It should first be noted that Mr. Cox was not nominated by the President and did not serve at the President's pleasure. As an appointee of the Attorney General,[10] Mr. Cox served subject to congressional rather than Presidential control. *See Myers* v. *United States*, 272 U.S. 52 (1926). The Attorney General derived his authority to hire Mr. Cox and to fix his term of service from various Acts of Congress.[11] Congress therefore had the power directly to limit the circumstances under which Mr. Cox could be discharged, *see United States* v. *Perkins*, 116 U.S. 483 (1886), and to delegate that power to the Attorney General, *see Service* v. *Dulles*, 354 U.S. 363 (1957). Had no such limitations been issued, the Attorney General would have had the authority to fire Mr. Cox at any time and for any reason. However, he chose to limit his own authority in this regard by promulgating the Watergate Special Prosecutor regulation previously described. It is settled beyond dispute that under such circumstances an agency regulation had the force and effect of law, and is binding upon the body that issues it. *Accardi* v. *Shaughnessy*, 347 U.S. 260 (1954) ("*Accardi I*"); *Bonita* v. *Wirtz*, 369 F. 2d 208 (D.C. Cir. 1966); *American Broadcasting Co.* v. *F.T.C.*, 179 F. 2d 437 (D.C. Cir. 1949); *United States* v. *Chapman*, 179 F. Supp. 447 (E.D. N.Y. 1959). As the Ninth Circuit observed in *United States* v. *Short*, 240 F. 2d 292, 298 (9th Cir. 1956):

"An administrative regulation promulgated within the authority granted by statute has the force of law and will be given full effect by the courts."

Even more directly on point, the Supreme Court has twice held that an Executive department may not discharge one of its officers in a manner inconsistent with its own regulations concerning such discharge. *See Vitarelli* v. *Seaton*, 359 U.S. 535 (1959); *Service* v. *Dulles*, *supra*. The firing of Archibald Cox in the absence of a finding of extraordinary impropriety was in clear violation of an existing Justice Department regulation having the force of law and was therefore illegal.

Defendant suggests that, even if Mr. Cox's discharge had been unlawful on October 20, the subsequent abolition of the Office of Watergate Special Prosecutor was legal and effectively discharged Mr. Cox at that time. This contention is also without merit. It is true that an agency has wide discretion in amending or revoking its regulations. *United States* v. *O'Brien*, 391 U.S. 367, 380 (1968). However, we are once again confronted with a situation in which the Attorney General voluntarily limited his otherwise broad authority. The instant regulation contains within its own terms a provision that the Watergate Special Prosecutor (as opposed to any particular occupant of that office) will continue to carry out his responsibilities until he consents to the termination of that assignment.[12] This clause can only be read as a bar to the total abolition of the Office of Watergate Special Prosecutor without the Special Prosecutor's consent, and the Court sees no reason why the Attorney General cannot by regulation impose such a limitation upon himself and his successors.

Even if the Court were to hold otherwise, however, it could not conclude that the defendant's Order of October 23 revoking the regulation was legal. An agency's power to revoke its regulations is not unlimited—such action must be neither arbitrary nor unreasonable. *Kelly* v. *United States Dept. of Interior*, 339 F. Supp. 1095, 1100 (E. D. Cal. 1972). *Cf. Grain Elevator, Flour and Feed Mill Workers* v. *N.L.R.B.*, 376 F. 2d 774 (D.C. Cir.), *cert. denied*, 389 U.S. 932 (1967); *Morrison Mill Co.* v. *Freeman*, 365 F. 2d 525 (D.C. Cir. 1966), *cert. denied*, 385 U.S. 1024 (1967) In the instant case, the defendant abolished the Office of Watergate Special Prosecutor on October 23, and reinstated it less than three weeks later under a virtually identical regulation.[13] It is clear that this turnabout was simply a ruse to permit the discharge of Mr. Cox without otherwise affecting the Office of the Special Prosecutor—a result which could not legally have been accomplished while the regulation was in effect under the circumstances presented in this case. Defendant's Order revoking the original regulation was therefore arbitrary and unreasonable, and must be held to have been without force or effect.

These conclusions do not necessarily indicate that defendant's recent actions in appointing a new Watergate Special Prosecutor are themselves illegal, since Mr. Cox's evident decision not to seek reinstatement necessitated the prompt appointment of a successor to carry on the important work in which Mr. Cox had been engaged. But that fact does not cure past illegalities, for nothing in Mr. Cox's behavior as of October 23 amounted to an extraordinary impropriety, constituted consent to the abolition of his office, or provided defendant with a reasonable basis for such abolition.

Plaintiffs have emphasized that over and beyond these authorities the Acting Attorney General was prevented from firing Mr. Cox by the explicit and detailed commitments given to the Senate, at the time of Mr. Richardson's confirmation when the precise terms of the regulation designed to assure Mr. Cox's independence were hammered out. Whatever may be the moral or political implications of the President's decision to disregard those commitments, they do not alter the fact that the commitments had no legal effect. Mr. Cox's position was not made subject to Senate confirmation, nor did Congress legislate to prevent illegal or arbitrary action affecting the independence of the Watergate Special Prosecutor.

The Court recognizes that this case emanates in part from congressional concern as to how best to prevent future Executive interference with the Watergate investigation. Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court. As Judge Learned Hand

Footnotes at end of article.

warned in *United States* v. *Marzano*, 149 F.2d 923 926 (1945):

"Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge."

This Memorandum contains the Court's findings of fact and conclusions of law. The rulings made are set out in the attached Final Order and Declaratory Judgment.

GERHARD A. GESELL,
United States District Judge.

November 14, 1973.

FOOTNOTES

[1] At the injunction hearing, the Court dismissed Mr. Nader as a plantiff from the bench, it being abundantly clear that he had no legal right to pursue these claims. *Flast* v. *Cohen*, 392 U.S. 83, 102 (1968).

[2] Referring to various bills pending in the Senate, Senator Moss stated, "I am severely hampered in my ability to discharge my duties because of uncertainty which exists with respect to the legality of Special Prosecutor Cox's dismissal and the abolition of his office." Affidavit of Sentaor Frank E. Moss, dated October 29, 1973. Congressman Waldie is a member of the House Judiciary Committee and both he and Congresswoman Abzug have introduced resolutions calling for the impeachment of the President because of the Cox dismissal and other matters.

[3] The regulation from which the present Watergate Special Prosecutor, Mr. Leon Jaworski, derives his authority and his independence from the Executive branch is virtually identical to the original regulation at issue in this case. *See* note 13 *infra*. It is therefore particularly desirable to enunciate the rule of law applicable if attempts are made to discharge him.

[4] 38 F.R. 14688 (June 4, 1973). The terms of this regulation were developed after negotiations with the Senate Judiciary Committee and were submitted to the Committee during its hearings on the nomination of Elliot Richardson for Attorney General. Hearings Before the Senate Comm. on the Judiciary, 93rd Cong., 1st Sess. 144–46 (1973).

[5] *See* U.S.C. § 301.

[6] Justice Department Internal Order 518–73 (May 31, 1973).

[7] *See* Defendant's Brief in Opposition to Plaintiffs' Motion for Preliminary Injunction, at 13.

[8] Exhibit 12 to the Affidavit of W. Thomas Jacks.

[9] 38 F.R. 29466 (Oct. 23, 1973).

[10] *See* 38 F.R. 14688 (June 4, 1973).

[11] 5 U.S.C. § 301; 28 U.S.C. §§ 509–10.

[12] *See* 38 F.R. 14688 (June 4, 1973): "The Special Prosecutor will carry out these responsibilities with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself."

[13] The two regulations are identical, except for a single addition to the new regulation which provides that the Special Prosecutor may not even be discharged for extraordinary improprieties unless the President determines that it is the "consensus" of certain specified congressional leaders that discharge is appropriate. *Compare* 38 F.R. 30738 (Nov. 9, 1973) *with* 38 F.R. 14688 (June 4, 1973).

RALPH NADER, SENATOR FRANK E. MOSS, REPRESENTATIVE BELLA S. ABZUG AND REPRESENTATIVE JEROME R. WALDIE, PLAINTIFFS, v. ROBERT H. BORK, ACTING ATTORNEY GENERAL OF THE UNITED STATES, DEFENDANT

[In the United States District Court for the District of Columbia, Civil Action No. 1954–73]

FINAL ORDER AND DECLARATORY JUDGMENT

On the basis of findings of fact and conclusions of law set forth in an accompanying Memorandum filed this day, it is hereby

Ordered and decreed that:

(1) Plaintiff's motion for leave to file an Amended Complaint and add additional plaintiffs is granted.

(2) Plaintiff's motion for preliminary injunction is denied, and the trial of the action on the merits is advanced and consolidated with the hearing on said motion.

(3) Mr. Ralph Nader is dismissed as plaintiff for lack of standing.

(4) All injunctions prayed for in the Amended Complaint are denied.

(5) The Court declares that Archibald Cox, appointed Watergate Special Prosecutor pursuant to 28 C.F.R. § 0.37 (1973), was illegally discharged from that office.

GERHARD A. GESELL,
United States District Judge.

November 14, 1973.

PROJECTION OF FISCAL SITUATION AT THE END OF 93D CONGRESS, 1ST SESSION

(Mr. MAHON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MAHON. Mr. Speaker, the President in his January budget proposed an expenditure ceiling for this fiscal year of $268.7 billion, an increase in spending over the prior fiscal year in the sum of $18.9 billion. He proposed a unified deficit in the sum of $12.7 billion which would translate into a debt increase in the fiscal year of $29.7 billion.

CONGRESSIONAL SPENDING TOTALS

The House in the anti-impoundment bill approved a spending ceiling of $267.1 billion and the Senate in a similar bill approved a ceiling of $268 billion. The House reduced by $2.3 billion a debt limit bill that was based on spending of $270 billion. These bills have not been enacted into law.

CURRENT ADMINISTRATION ESTIMATE OF SPENDING

During this session of Congress, the President has signed into law certain congressional add-ons to the budget. There has been a sharp increase in the estimated interest on the national debt and other fiscal developments. The President has—as of October 18—revised his January budget upward to the figure of $270 billion. That figure includes $2.4 billion in congressional increases signed into law by the President. The aid to Israel budget amendment raised the estimate to $270.6 billion.

CONGRESSIONAL BUDGET INCREASES

We can now see rather clearly what the overall fiscal outcome of this session will be. Actions by Congress have already added to the estimated spending above the January budget by about $2.4 billion. I estimate that by the end of the session, Congress will have added an additional sum of $2.6 billion to the amended spending budget, resulting in a total of about $5 billion over the January budget.

APPROPRIATION BILLS WITHIN THE BUDGET

I estimate that in appropriation bills handled by the Appropriation Committees, the amounts approved will not exceed the President's budget for new spending authority. We should be at about the level of the President's budget.

BUDGET INCREASES IN NONAPPROPRIATION BILLS

I wish to say again what I have said so many times before, that budget busting does not result in the overall from actions by Congress on appropriation bills. Budget busting results from actions by Congress on nonappropriation bills which mandate spending. Here is a partial list of mandated spending in nonappropriation bills which have been approved at this session:

	(*In millions*)
Food Stamp Amendments (P.L. 93–86)	$+724
Repeal of "bread tax" (P.L. 93–86)	+400
Federal employee pay raise, Oct. 1, 1973 (S. Res. 171)	+358
Welfare-medicaid amendments (P.L. 93–66)	+122
Unemployment benefits extension (P.L. 93–53)	+116
Veterans' national cemeteries (P.L. 93–43)	+110
Social security—liberalized income exemption (P.L. 93–66)	+110
School lunch amendments (H.R. 9639)	+100

In and out of Congress there is a great deal of talk about getting a better handle on Government spending. The principal remedy lies in better control of spending provided in nonappropriation bills.

FEDERAL BORROWING

The President estimated on October 18 that it appeared that the unified budget for this year would be in balance as a result of a dramatic increase in revenues of $14 billion over the January estimate.

Putting it another way, and with more reality, the most recent administration estimate is that for this year the Federal funds deficit will be $15 billion, and the National debt will increase this year by about $19 billion. This inconsistency is explained by the fact that the Treasury borrows from the excess social security and other trust funds but fails to count these borrowings as part of the unified budget deficit even though the borrowed funds must be repaid with interest.

THE DEBT LIMIT AND TOTAL SPENDING

It is difficult to calculate what may develop as a result of increases approved for spending this year and the debt ceiling of $475.7 billion recently approved by the House. The administration debt limit estimate of $480 billion and the committee recommendation of $478 billion were based on total outlays of $270 billion in fiscal year 1974. My current estimate of total outlays is about $273 billion, including the aid to Israel budget amendment and congressional increases subsequent to October 18. Funds cannot be expended which would up the debt ceiling above the authorized amount. Whether this will be used by the Office of Management and Budget this fiscal year as it was last year to justify impoundment of funds made available by Congress remains to be seen.

RESPONSIBILITY FOR FISCAL SITUATION

The responsibility for our fiscal situation must be borne jointly by the executive and legislative branches. The Congress continues to approve budgets badly out of balance, and the executive continues to approve congressional initiatives in excess of the budget.

BUDGET CONTROL BILL

The issue clearly points up the necessity of better congressional control of all spending, especially so-called backdoor spending. Hopefully a large part of the answer will be found as Congress

pushes to final enactment the proposed budget control measure.

At this point I will place in the RECORD a table setting forth more details on the spending estimate for fiscal year 1974.

Fiscal year 1974 spending estimate

Current estimate of fiscal year 1974 spending:	*Billions*
Administration October 18 estimate	$270.0
Aid to Israel budget amendment	0.6
Congressional increases subsequent to Oct. 18	2.6
Total	273.2
Expenditure impact of congressional actions on January budget:	
Detail on major completed actions (estimated fiscal year 1974 outlay impact):	
1. Appropriation bills:	
Regular bills:	*Millions*
Agriculture	+$250
Interior	+75
Public Works	+20
Transportation	−30
District of Columbia	−14
Legislative	−16
Treasury-Postal Service	−42
HUD-Space-Science-Veterans	------
1973 Supplemental bills (1974 outlay impact)	+557
Subtotal, appropriation bills	+799
2. Legislative bills—backdoor and mandatory:	
Food stamp amendments (P.L. 93-86)	+724
Repeal of "bread tax" (P.L. 93-86)	+400
Federal employee pay raise, Oct. 1 1973 (S. Res. 171)	+358
Welfare—medicaid amendments (P.L. 93-66)	+122
Unemployment benefits extension (P.L. 93-53)	+116
Veterans national cemeteries (P.L. 93-43)	+110
Social security—liberalized income exemption (P.L. 93-66)	+100
Winema forest expansion (P.L. 93-102)	+70
Veterans dependents' health care (P.L. 93-82)	+65
Airport development (P.L. 93-44)	+15
REA—removed from budget (P.L. 93-32)	−146
School lunch amendments (H.R. 9639)	+100
Civil service retirement items	+37
Subtotal, legislative bills	+2,071
Total, 1974 outlay impact of completed congressional action	+2,870
Detail on major pending actions:	
1. Appropriation bills:	
Labor-HEW	−800
Defense	
Foreign aid	
State-Justice-Commerce-Judiciary	
Military construction	
2. Possible Inactions: The net effect on outlays of inaction on legislative proposals that would reduce budget outlays in fiscal year 1974 and on legislative proposals that would increase outlays for fiscal year 1974 could be about $800 million	+$800
Total—Congressional increases over January budget	+5,000

	House	Senate
2. Legislative bills—backdoor and mandatory:		
Civil service minimum retirement	+172	+200
Mass transit operating subsidies		+400
Federal employee health insurance	+234	
Veterans pensions	+208	+172
Trade reform—readjustment costs	+300	
Veterans drug treatment		+144
Social security	+1,100	+1,400
Total		+2,100

[In billions]

The October 18 $270 billion outlay estimate for 1974:	
Includes the effect of the following major developments:	
1. Net increase of $2.4 billion due to congressional action through October 18.	
2. Significant increases in estimates for certain uncontrollables:	
Interest	+2.9
Medicaid cost increases	+0.6
Disaster assistance	+.6
Veterans readjustment benefits	+.4
3. Significant decreases in estimates for certain uncontrollables:	
Outer Continental Shelf rents and royalties (offset against outlays)	−2.9
Farm price supports	−1.0
Stockpile sales	−0.9
Interest received and other offset payments	−.7
Unemployment trust fund	−.5
Excludes the effect of the following major developments:	
1. Assistance to Israel budget amendment	+0.6
2. Congressional increases subsequent to October 18	+2.6

IVAN DZYUBA: A UKRAINIAN HERO

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I rise to bring to my colleagues' attention the most recent illustration of the brutal policies of the Soviet Government toward its own citizens. It is the case of Ivan Dzyuba, a prominent Ukrainian writer and critic of Soviet policy on domestic nationalities. In January 1972, Mr. Dzyuba was arrested and held incommunicado until he was sentenced in March of this year to 10 years of prison and exile. His crime was his ardent defense of the cultural independence of religious and national groups within the Soviet Union. The Soviet Government knows of this man's long record of courage in opposing cultural coercion. Dzyuba's concern has not been confined to his Ukrainian brothers and sisters. His universal feeling for ethnic and religious freedom is reflected in this eloquent statement he delivered on the 25th Anniversary of the Babi Yar massacre of 40,000 Jews: "Let the Jews know the Jewish history, the Jewish culture, and the Yiddish language and be proud of them."

Today's New York Times reports that Dzyuba has been pardoned from his sentence. He has been quoted by Tass as having said that he now "unequivocally condemns" his previous work and is now writing a new book to correct his "past fallacies." Again the world is being asked to believe that the atmosphere of a Soviet prison has opened the mind of an intellectual to the truths that had previously eluded him. What Tass does not reveal is that Dzyuba is suffering from tuberculosis. According to the Times, other Soviet dissidents, have expressed doubts that he would be able to survive a full term of 5 years in penal camp and 5 years in exile.

It is reasonable to believe that Dzyuba was given a choice between his life and the integrity of his beliefs. It is the choice imposed upon countless other Soviet citizens who have dared take exception to State policies. Such a dilemma must be especially cruel to a man who has defended the intellectual and cultural diversity of his countrymen against government demands of conformity.

If we cannot expect Russia to reverse its habits of oppression, surely we can do all that is peaceably possible to encourage it to allow those subject to brutalization to leave. This is the clear intent of the Jackson-Mills-Vanik Trade Amendment. Certainly we need no further revelations of mental and physical violence against religions, nationalities and intellectuals to demonstrate the need for this kind of economic sanction against the Soviet Union. As the Dzyuba case shows, this is not simply a Jewish issue. There is no indication that any group in Russia wishing to maintain its freedom of thought is exempt from reprisal. As the Ukrainians also know, all Soviet citizens must face the real possibility that hypocrisy may become necessary for life itself. Those forced into this position deserve our understanding and support.

TRUCK POLLUTION: EPA RESPONDS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, on October 23 I wrote to Russell E. Train, Administrator of the Environmental Protection Agency stating my view that according to newspaper reports, it would not be possible until 1977 or even 1980 that sufficiently stringent antipollution measures for trucks would be operative. In the RECORD of October 25 I raised the problem for the benefit of our colleagues.

In addition, I made the suggestion that the Environmental Protection Agency might consider New York City's testing methods as temporary measures until better ones were perfected by EPA in the near future. Most of all, I stressed that it was intolerable that center cities should increasingly submit to pollution emissions from trucks. It was estimated that 80 percent of central Manhattan's air pollution would derive from trucks by 1980.

I am glad to report that the response of the Assistant Administrator for Air and Water programs of EPA, Mr. Robert L. Sansom, made clear that the Agency was at work on more relevant test proce-

dures to regulate stringent antipollution measures. Mr. Sansom also reported that EPA is considering accelerating the schedule for stricter emission standards for trucks. If the EPA decides to do so, Mr. Sansom has stated that full consideration will be given "to the feasibility of utilizing the standards developed by New York City."

The correspondence between Mr. Sansom of EPA and myself follows:

U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., October 23, 1973.

Hon. RUSSELL B. TRAIN,
Administrator, Environmental Protection Agency, Waterside Mall, Washington, D.C.

DEAR MR. TRAIN: I was distressed to read in the accompanying *New York Times'* article the prediction by Deputy Assistant Administrator Eric Stork that new antipollution regulations for trucks would not be in effect until 1977 or 1978 and that some officials of EPA do not expect new standards until 1979 or 1980.

This delay is intolerable for cities such as New York, where Department of Air Resources Commissioner Fred C. Hart has estimated that by 1980, 80% of central Manhattan's air pollution will derive from trucks if new standards are not soon imposed. In addition, the delay in creating viable antipollution standards will make it virtually impossible for New York City and many other cities to comply with EPA's clean air standards.

New York City has devised test standards for trucks which however imperfect, is better than nothing. Is it not possible for the EPA to establish test procedures by which truck anti-pollution levels could be created according to the current state of the technological art? If established now, to be in effect in one year's time, modifiable with increased knowledge, these regulations will serve to substantially reduce the presently intolerable air pollution our cities suffer.

Sincerely,

EDWARD I. KOCH.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
Washington, D.C., November 9, 1973.

Hon. EDWARD I. KOCH,
House of Representatives,
Washington, D.C.

DEAR MR. KOCH: This is in response to your request for our comments on an article that appeared in the October 13 issue of the New York Times. In that article it was suggested that the trucking industry "had pulled off a coup on the EPA" by escaping stringent anti-pollution regulations on their vehicles.

Heavy duty engines used in trucks and buses have been subject to Federal emission control requirements, including smoke limitation requirements, since the 1970 model year. Effective with the 1974 model year, these requirements have been made more stringent. Particularly as regards smoke, there is no reason today for a well maintained and properly operated post-1970 model truck or bus to emit significant quantities of visible smoke. The key phrase in the foregoing is "well maintained and properly operated." If the operator of a diesel powered heavy duty vehicle "lugs" that vehicle, i.e., if he fails to shift to a lower gear and thus attempts to get more power out of the engine than it can reasonably be expected to deliver for sustained periods of time, the engine will burn substantially more fuel (in relation to air) than it should, and thus will smoke. As regards maintenance, when an engine in a heavy duty vehicle is not properly maintained, it is very likely that vehicle will emit visible smoke.

In addition to emission control standards that have already been imposed on trucks and buses, the Environmental Protection Agency is at work on the development of new and more valid emission test procedures, and on the evaluation of the feasibility of more stringent emission control for heavy duty engines. We fully expect as a result of this work to propose even more stringent standards for heavy duty engines than apply currently.

As regards your question as to whether test standards devised for trucks for New York City which, however imperfect, may be better than nothing, could be adopted for the interim until final emission standards for such vehicles can be developed, we are currently making another review to determine whether or not the schedule for imposing more stringent emission standards for trucks can be accelerated. In that evaluation, we will give full consideration to the feasibility of utilizing the standards developed by New York City.

Sincerely yours,

ROBERT L. SANSOM,
Assistant Administrator for Air and Water Programs.

A DEATH IN CHILE

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I have been very concerned over the barbaric acts perpetrated by the military junta that now rules in Chile. The still unexplained slaying—apparently by summary military execution—of one of my constituents, Charles E. Horman, has driven home the brutality of this regime. In addition, the allegations cited by members of Charles Horman's family describing the indifference, incompetence, or brutal callousness of the American Embassy in Santiago, raises the most serious ethical questions.

I believe that the allegations of Edmund Horman, father of Charles, which I placed in the CONGRESSIONAL RECORD of October 31, and those of Joyce Horman, Charles' widow, which are set forth in this statement, warrant a full investigation by the House Foreign Affairs Committee. I have urged Chairman THOMAS E. MORGAN of that committee to make such an investigation.

The letter of Mrs. Joyce Horman to Senator FULBRIGHT, a copy of which was sent to me, follows:

NEW YORK, N.Y. *November 7, 1973.*

Hon. J. WILLIAM FULBRIGHT,
Chairman, Foreign Relations Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR FULBRIGHT: I returned to New York City on October 21st, after spending a tortourous month in Santiago, Chile, looking for my husband, Charles Horman, who was taken from our home on September 17th, and summarily executed on September 18th by the Chilean military.

I hope that the treatment to which I was subjected both by the Chilean military and by the U.S. Embassy/Consulate will never be experienced by any person ever again. I realize that I have little hope of influencing the Chilean military's brutal abuse of human rights and civil liberties, but I hope that my statement and the statements of others can help remedy the callous, uncaring treatment which we received from the U.S. Embassy/Consulate in Santiago.

The three points which I wish to emphasize in this letter are:

1. the slow, inadequate steps taken by the Embassy/Consulate personnel during the first crucial days after Charles was taken.

2. the general lack of concern for and irritation with the U.S. citizens who sought aid and protection of the Embassy/Consulate at this time.

3. the use of rumors and intimidation on the part of this same personnel and by the U.S. State Department to cover and excuse their non-action.

In the case of my husband, Charles Horman, the most irresponsible non-action of the Consulate took place on September 18th. The Consulate received two telephone calls early that day stating that my husband was in the hands of the Chilean military. Purdy states in a written report that he telephoned "pertinent" local police stations on that day.

Why did he not go directly to the National Stadium?

Why did he not contact the Navy?

Why did he not contact the Army—the Air Force—the Military Intelligence Service?

I feel that rapid, forceful action at this time could have saved Charles' life. In a meeting with Ambassador Davis, Col. Hon. Edmund Horman (Charles' father) and me on October 5, Consul Fred Purdy denied knowledge of telephone calls to the consulate. I reminded him that both calls had been noted on the Consulate cards being kept concerning my husband's case. He checked the cards and confirmed that the calls had been noted.

In the interviews I had with the Consulate concerning Charles' case, it seems to me that the consulate staff established a line of questioning for the purpose of ascertaining a justification for Charles' seizure—(Was he politically involved? What were Charles' activities? What kind of things were his friends doing?)—rather than being sufficiently interested in the facts and details of his seizure. It was necessary for me to reconfirm and repeat at various interviews that Charles had been taken from our home by the Chilean military on September 17th and that telephone calls had been made by the Military Intelligence Service to friends on September 18th, asking about Charles' character.

The attitude which I encountered in the Embassy/Consulate personnel was one of irritation and annoyance with U.S. citizens seeking the Consul's aid during this time of emergency. For example, after a meeting with Mr. Purdy, he followed me out of his office to the outer office where two friends were waiting for me. He asked for Charles' passport number. I was present when the passport number was telephoned to Mr. Purdy's office by an Embassy official earlier that week. I asked if he had not already received it. He suggested that perhaps it had been sent through the mail. I said incredulously "the mail?" To this Mr. Purdy responded, "Mrs. Horner (sic) . . . I mean the Embassy mail. Now listen, you can read anything you like into what I say, but if you people don't think I've been doing my job . . . I haven't had a good lunch with my friends for the past 11 days . . . and I missed my baby's birthday on the 18th and I've worked late two nights." One of my friends gave him Charles' passport number and my friends and I left the consulate.

Another example of the attitude of the embassy personnel was shown at a meeting on September 26th in Ambassador Davis' office. Ambassador Nathaniel Davis and Captain Ray Davis were present at this meeting. Captain Davis was asked by the Ambassador to report on Charles' case. Afterwards, the Ambassador asked me, "What more can we do for you?" I said, "Well—has anyone from this Embassy gone into the stadium? I understand that other Embassy representatives have gone to the Stadium, and have gotten their people out. Is it possible that it be arranged that someone from this Embassy or

that I go to the Stadium and look? It seems possible that his (Charles') records may be lost, and that he's misplaced, and I would like to look.

Ambassador Davis said that we don't want to ask favors of this government. If we get favors, everyone else will expect to get them too. Then he said something to the effect that we do not wish to do possible damage to our relations with this new Chilean government.

I repeated my question and he said, "Now just what did you wish to do at the stadium? Would you like to look under all the bleachers and into all the corners?" I replied, "Yes—why shouldn't I?" At this point Captain Davis changed the subject and we ended on the note that the Embassy/Consulate would telephone Col. Espinoza (the officer in charge of the stadium) and ask him if Charles' name was on any of the new lists. He also told me that I should be patient and that they would do their best to find Charles.

The two examples described above illustrate the irritation and unwillingness to act which I encountered in the Embassy/Consulate in Santiago.

The third point I wish to illustrate involves the use of rumors by the State Department in Washington. When I returned to New York, a friend reported to me that she had spoken with other friends and members of the press who had called or visited the State Department to obtain information about Charles' case. These people received inaccurate, derogatory and prejudicial information. One example appeared as follows in the *New York Post*:

"State Dept. officials said they had requested an investigation of Horman's death. They said they were not convinced he was not killed by left wing groups masquerading as soldiers and 'parading around in uniforms' after the coup.

"If it were people on the Left, it would have to be really wicked people who would kill him just to make the military look bad," said State Dept. spokesman Kate Marshall."

Before Charles' death was made official, a rumor reportedly came from the State Department suggesting that Charles was in hiding. This covered and confused the fact that the Chilean military had him and that the Embassy/Consulate had not located him.

I want to relate a conversation which I had with my husband after he returned from five days in Vina, (trapped by the coup). He and Terry Simon, who was visiting us from New York City conversed with and were entertained by U.S. military personnel in Vina. Charles told me that the U.S. military officials exhibited much enthusiasm about the success and "smooth operation" of the coup. He also told me that they expressed a high level of antagonism towards the former Allende regime. He said he had been told by the same military personnel that the Chileans were expecting aid from the United States, to be channeled through the North American Naval Mission.

What is the significance of these remarks? Do they reflect a point of view shared by the Embassy/Consulate personnel? Would such a point of view affect the treatment of Americans in Chile who were not connected with the Embassy? Who is responsible for the unwillingness to act and irritation which I encountered at the Embassy/Consulate? Is the Ambassador responsible for setting the tone of Embassy/Consulate personnel? Was it Ambassador Davis' decision to set the tone which I encountered? Did orders come down to him from elsewhere? Is it possible that the kind of people representing the United States in Santiago were chosen because of their attitudes? Were they selected for a purpose? Who are these people? Who brought them together?

The cooperation of the Embassy/Consulate improved somewhat during the last two weeks of my search for Charles. I feel that this was due to inquiries about Charles made by U.S. Senators, Congressmen, the White House, the United Nations, prominent U.S. citizens, and the arrival of Charles' father, Edmund Horman, in Santiago.

Nevertheless, the facts stand that Charles was taken from our home by the Chilean Military, and killed in the National Stadium the day after he was seized. There were no charges against him. Why was my husband brutally executed?

Sincerely,

(MRS.) CHARLES E. HORMAN.

WORLD CONGRESS OF PEACE FORCES FOR INTERNATIONAL SECURITY AND DISARMAMENT

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, as chairman of the House Committee on Internal Security, I have on several occasions in the past called attention to the continuing efforts of Communist groups and organizations to exploit the peace movement in this country. On those occasions, I have noted that much of the preliminary planning for the violent antiwar protest demonstrations in this country in recent years was done at international conferences sponsored by the World Peace Council. In view of this, I believe it is important that all Members of Congress and the American public be informed of a meeting of the World Congress of Peace Forces for International Security and Disarmament which was held in Moscow, U.S.S.R. from October 25–31, 1973, under the sponsorship of the World Peace Council.

Described as "the largest such gathering in history," the Congress was opened in the Kremlin's Palace of Congresses. Romesh Chandra, the Secretary General of the World Peace Council, who is also the leader of the Indian—pro-Soviet—Communist Party, was elected to be the chairman. Over 2,000 delegates from some 140 countries were represented at the Moscow Congress, with the U.S. delegation of over 150 being among the largest.

The World Peace Council is an international Communist front which came into existence in 1948 and currently embraces "national peace committees" in over 80 countries. From its inception, the World Peace Council has defended the policies of the Soviet Union and has attacked those of the Western Powers. In recent years, the World Peace Council's activities have focused primarily upon "U.S. aggression" in Southeast Asia and support of the Soviet call for a new European security system. Other activities of the World Peace Council have included the organizing of mass protests against U.S. involvement in Southeast Asia; chartering a ship to collect medical goods for the North Vietnamese; waging a boycott of U.S. firms supplying war materials and campaigning for the granting of political asylum in any country for U.S. military deserters.

It is not surprising that a U.S. delegation would participate in this October 1973 Moscow meeting in view of the fact that the chairman of the U.S. delegation, Carlton Goodlett, is a member of the Presidential Committee of the World Peace Council. Goodlett, who has a long record of affiliation with Communist front groups, was once a teacher at the Communist-run California Labor School. Other prominent members of the U.S. delegation were Helen Winter and Hyman Lumer, both of whom are members of the Political Committee of the Communist Party, USA. The attendance of CPUSA delegates at this international gathering should help to dispel the notion in some quarters that the CPUSA acts in isolation and makes its own decisions in complete independence of the world communist movement.

I have received a firsthand report of what transpired at this conclave from a member of the U.S. delegation who has just returned to the United States. My source tells me that the U.S. delegation was given a hearty welcome upon its arrival in Moscow and was treated royally. In fact, some members of the U.S. delegation were somewhat embarrassed in that they were afforded better treatment than that received by other delegations.

On the first day of the Moscow Congress, Leonid Brezhnev, General Secretary of the Communist Party of the Soviet Union, delivered a lengthy welcoming speech to the Congress, which was termed by U.S. delegation chairman Carlton Goodlett as "an unforgettable moment in history."

Profaning the very meaning and spirit of peace, the delegates to the Moscow Congress declared that V. I. Lenin, the architect of the Soviet power apparatus, had been a foremost proponent for peace, and honored Lenin's memory by visiting his mausoleum.

The Congress received a message of greetings from U.S. industrialist Cyrus Eaton, who is well known for his frequent public statements extolling the virtues of the Soviet Union while at the same time attacking what he has characterized as the "anti-Russian belligerence of the United States." Eaton, in his message to the Moscow Congress, expressed his delight over the recent agreements expanding trade between the U.S.S.R. and the United States.

I have been informed by my source that although the U.S. delegation was composed of various groups, the CPUSA was actually in control of the delegation and gave it leadership and direction. This appeared to be obvious when the CPUSA organ, Daily World, reported in its October 30, 1973 issue that the U.S. delegation had expressed its indignation upon hearing that the U.S. Government had declared a state of alert to its Armed Forces. The U.S. delegation, according to the Daily World, endorsed a statement by the Soviet news agency TASS which declared that the alert was "an effort to intimidate the Soviet Union but that such tactics could never succeed."

The Moscow Congress set up 14 work commissions which included those devoted to peaceful coexistence and international security; Indochina; the Middle East; Disarmament; National Liberation; Chile; and Struggle Against Colonialism and Racism. It is significant to note that CPUSA official Hyman Lumer

chaired the Middle East Commission, and CPUSA official Helen Winter played a leading role in the work of the Chile Commission.

The Reverend Paul Mayer, a Catholic priest and longtime antiwar activist, tossed a bombshell into the Moscow Congress when he submitted a document titled "On Soviet Dissidents." This document, according to the Daily World, adopted the position on Soviet citizens Alexander Solzhenitsyn and Andrei Sakharov that has long been promoted by anti-Soviet forces desperately seeking to block détente. Reverend Mayer was charged with having violated the congress' rules of procedure which directs that documents should first be presented for discussion to fellow members of the participant's delegation.

It was interesting to note that Reverend Mayer's document caused a great deal of consternation and embarrassment of the CPUSA members of the U.S. delegation. CPUSA member Pauline Rosen, a member of the U.S. delegation's steering committee, declared that Reverend Mayer's comments were "uncorroborated" and called his document as a whole "devisive." Mrs. Rosen was instrumental in having the steering committee quickly draw up a resolution to the full U.S. delegation completely disavowing Reverend Mayer's document.

The Daily World was particularly incensed that Reverend Mayer's plan to submit his document had been told in advance to the New York Times and Washington Post. The Daily World, in a published statement, declared that:

> The biased positions of these two papers on Solzhenitsyn and Sakharov and on Soviet international affairs are notorious all over the world.

"U.S. imperialism" was singled out by the Moscow Congress as the main enemy of peace and social progress and the "peace forces" were urged to unite in a common struggle against imperialism.

Among the actions decided on by the Moscow Congress were the following:

First, the spirit of détente affords an opportunity to rouse the public conscience in all countries to advance disarmament;

Second, the peace of humanity is jeopardized by Israeli aggression backed by U.S. forces. The occupation of Arab land by Israel is unacceptable and all political parties, mass movements and public organizations in all countries are to mobilize public opinion to insure an immediate implementation of the resolutions of the U.N. Security Council for settlement of the Middle East conflict; and

Third, peace forces in all countries are to give the widest possible support to the struggle of the Chilean people. Peace forces are urged to set up National Solidarity Committees in all countries and to launch a campaign for an end to terror in Chile.

The steering committee of the U.S. delegation in a press statement at the conclusion of the Moscow Congress stated that it had learned of "continuing bloodshed in Indochina, similar struggles in Africa and Latin America and of movements and people fighting apartheid, racism and colonial rule so often supported by the government which acts in our name." The steering committee also commented that the U.S. delegates have vowed to return to the United States with new vigor and will join together in the continuing struggle for peace.

My source has advised that primarily through the efforts of the CPUSA members of the U.S. delegation, Mrs. Salvatore Allende, wife of the late Chilean Marxist leader, was persuaded to make a speaking tour in the United States. Tentative plans call for Mrs. Allende to deliver her first Communist propaganda tirade in San Francisco on November 17.

I was particularly interested in the comments of my source who indicated that there were a great number of Soviet police everywhere the U.S. delegation went. My source noted that the Soviet citizens appeared to be terrified of the police.

Mr. Speaker, it is clear that the Moscow Congress sponsored by the World Peace Council is not one motivated for peace but rather by a desire to arouse emotional hatred against the United States and its democratic society. Communists masquerading as prophets of peace must be placed in proper perspective for our citizens. Maneuvering under the appealing label of peace, they serve only to help achieve Communist objectives. Their self-proclaimed objective may be peace, but always on Communist terms.

The World Peace Council, operating on the international level, has demonstrated once again in Moscow that it views the struggle against the United States as one of worldwide scope. This gathering shows that the strategy and tactics to be used in protest against the United States are continuing to be mapped out on an international scale with the World Peace Council calling the shots.

The decisions made at the Moscow Congress calling for actions by "peace" groups around the world for mounting pressure of the governments of their nations opposing their cooperation with the United States takes on an entirely different significance when viewed in this light. It may well be projected that these "peace" forces will continue to seek to build a strong political movement spurred on by a continuous propaganda barrage to alter U.S. policies and to demean the United States in the eyes of the world.

COMMUNIST PROPAGANDA

(Mr. ICHORD asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ICHORD. Mr. Speaker, several of my colleagues have recently called to my attention that they have received through the mail a copy of the magazine, Korea Focus, which apparently has been sent unsolicited to Members of Congress.

Korea Focus is self-identified as an official publication of the American-Korean Friendship and Information Center in New York City. The 1971 Annual Report of the House Committee on Internal Security described the American-Korean Friendship and Information Center as a "recently formed Communist Party, U.S.A. front group" that reflects the Party's current attempt to unite the issues of withdrawal from Vietnam with that of withdrawal from Korea. The committee's report noted that literature disseminated by the AKFIC bears union printing label 209, the label of the Prompt Press, a New York firm that has officially been cited by the Attorney General of the United States as being owned by the CPUSA and which traditionally prints material for party front groups. Further, the key leadership positions in the AKFIC are in the hands of identified CPUSA members. The executive director and editor of Korea Focus, for example, is CPUSA National Committee Member Joseph Brandt, and the secretary is George B. Murphy, Jr., identified as a member of the CPUSA in sworn congressional committee testimony in 1956. The vice chairmen include two current members of the CPUSA National Committee: Dr. Herbert Aptheker, party theoretician, and Jarvis Tyner, head of the party's youth group, the Young Workers Liberation League. At least 27 of the 54 initial sponsors of the AKFIC have been identified at various times as members of the CPUSA and the party has given highly favorable publicity to the activities of the organization in its press.

The concern and indignation expressed by some of my colleagues over the receipt of this unsolicited Communist propaganda is certainly understandable. Propaganda has become the Communist Party's most powerful single weapon. No segment of our population and no sphere of activity in this country has been overlooked or neglected by the Communists as targets for their propaganda.

V. I. Lenin, the principal theorist and organizer of the world Communist movement, many years ago, while stressing the importance of the distribution of what he termed "illegal literature" by his band of secret Communist revolutionaries, pointed out the difficulties which the opponents of communism would find in coping with it. Lenin said:

> The police will soon come to realize the folly and futility of setting the whole judicial and administrative machine into motion to intercept every copy of a publication that is being broadcast in thousands.

Under the circumstances the remedy and antidote for the poison of Communist propaganda, such as that published in Korea Focus must finally be, as in the case of other propaganda, the counter-dissemination of knowledge and truth. This can be most effectively accomplished through the educational process, by which our citizens are alerted to the import and purpose of Communist propaganda. Educational programs, by which our citizens are fully informed of Communist tactics and objectives, will generally nullify any possible adverse effect achieved by the dissemination of Communist literature, and will further serve to strengthen our democracy and its democratic processes.

ADMINISTRATION PLANS ENDANGER VOCATIONAL REHABILITATION

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, on August 3 of this year the Select Subcommittee on Education, which I have the honor to chair, conducted an oversight hearing on the future directions of the rehabilitation program for handicapped Americans.

I convened this hearing, Mr. Speaker, because of my concern, following two Presidential vetoes of rehabilitation legislation, as well as the administration's announced intentions of cutting back on rehabilitation training and research, that this universally acclaimed program to assist handicapped adults might be drifting aimlessly.

Imagine our surprise, Mr. Speaker, when it became apparent at that hearing that the Administration was seriously considering a proposal to "cash out" the highly successful 52-year vocational rehabilitation program.

I refer, Mr. Speaker, to a June 28 planning memorandum, written by William A. Morrill, Assistant Secretary for Planning and Evaluation of the Department of Health, Education, and Welfare.

So alarmed did Corbett Reedy, Acting Commissioner of the Rehabilitation Services Administration, become over the implications of the memorandum, that on July 18, 1973, he wrote to James Dwight, Administrator of the Social and Rehabilitation Service, warning that the memorandum proposed the "fractionation and dissolution of the State-Federal program" of vocational rehabilitation.

Mr. Speaker, let me take a few moments to advise my colleagues of the contents of the Morrill proposal.

For what he proposed was a series of options, any one of which would have had the effect of crippling the highly successful 52-year-old program to provide rehabilitation services to handicapped men and women.

And among those options, Mr. Speaker, the one which appeared to find the most favor with Mr. Morrill was a proposal to disband the State-Federal rehabilitation and replace it with a cash assistance scheme which would enable the disabled recipient to purchase the services he needed.

On what basis was that startling proposal put forward?

The basis, I suggest, was almost entirely an ideological one—namely, that government is best which governs least.

Listen, Mr. Speaker, to the sentence with which Mr. Morrill began to justify his proposition:

> The following discussion is based upon the tenet that any given governmental function should be carried out at as decentralized a level as possible.

And, continued Mr. Morrill:

> This assumption is made for a variety of reasons, including:
>
> A belief that decentralized government can better address specific problems of a specific area; and
>
> A concern for the potential loss of personal liberties brought on by strong centralized government.

And, Mr. Speaker, while I do not accept the narrow and simplistic assumptions on which Mr. Morrill rested this highly important public policy proposal, I did not become overly distressed with the Morrill document until it became apparent that Mr. Morrill proposed not new legislation to accomplish his objectives, but rather, he suggested implementing his proposals behind the back of Congress.

For Mr. Morrill acknowledged that Congress would not sit idly by while he eviscerated this program.

But, he said, no matter, for:

> An alternative is to administratively implement this option under current legislation.

And, he continued:

> Specifically, DHEW rhetoric should reinforce strict observance by the states but SRS management efforts should be focused upon reducing unnecessary restrictions, reporting requirements, data collection, et cetera, by the states.

And, finally, Mr. Speaker, I should quote to you the following interesting language from Mr. Morrill's document. He said:

> In general, the programs in this area have not held up well under critical scrutiny of their performance.

And he said this was true for a number of reasons, including:

> The program objectives are vaguely defined, or conflicting objectives are held by various actors in the process. For example, the Federal goal for vocational rehabilitation is to obtain employment for the physically handicapped; at the individual counselor level that goal tends to translate into "classify as rehabilitated as many eligible persons as possible."

But if we turn to Mr. Reedy's July 18th memorandum to Mr. Dwight, in defense of the rehabilitation program, we hear a different conclusion. Mr. Reedy says, not so:

> There is general goal congruence within the State-Federal VR Program. Traditionally, the Federal role has included leadership, transfer of resources, and capacity building.

And, Mr. Reedy continued:

> As we move into the rehabilitation of the more severely disabled, the Federal role becomes more crucial in these areas, particularly in capacity building in special disability areas.

And Mr. Reedy continued to label as incorrect any notion that the handicapped person is generally able to purchase the services he needs without counseling assistance. Said he:

> The assumption behind the proposal to substitute cash assistance for the current VR program is that the disabled individual is capable and motivated to plan his rehabilitation program and to seek from vendors the services which he needs to implement that program, and further that such services are readily available for purchase. Generally, this is not the case. Normally, the disabled individual has little knowledge as to his specific rehabilitation needs or of the availability of essential services.

And, concluded Mr. Reedy:

> This is where the VR counselor plays a critical role in providing professional advice in helping the individual develop an appropriate rehabilitation plan tailored to his needs, while preserving the client's freedom of choice.

Now, I know, Mr. Speaker, that any of my colleagues who had the opportunity to attend the oversight hearing conducted by the Selected Education Subcommittee last August, or who have had a chance to read the transcript of that hearing, are aware that Mr. Morrill was simply unable to answer these objections on the part of Mr. Reedy.

SUPPORTING RHETORIC

Nor, Mr. Speaker, was Mr. Morrill able to tell us how his criticisms of the effectiveness of the rehabilitation program could be reconciled with the following statement:

> The Vocational Rehabilitation program is among the successful in HEW. A number of benefit-cost analyses have been made. They differ with respect to methods and assumptions, but agree on an important point: the benefits of the program are many times its cost. Conservative estimates of the ratio of benefits to costs have ranged between 8 to 1 and 35 to 1.

Whose words are those? They are those of none other than Caspar Weinberger, Secretary of the Department of Health, Education, and Welfare, spoken before the Senate Labor and Public Welfare Committee earlier this year during his confirmation hearings.

And, continued Mr. Weinberger:

> I can assure you there is not the slightest question as to the Administration's support of the vocational rehabilitation program, nor is there on my part.

Mr. Speaker, I should point out that we did, indeed, hear such supportive rhetoric for the rehabilitation program during the oversight hearing at which the planning memorandum came to light.

For, said Mr. Dwight in his opening statement:

> I would like to state at the outset my strong belief in the goals and activities of the rehabilitation program. It is one of the oldest and certainly one of the most successful of the Federal human resources programs.

And Mr. Morrill, himself, at that hearing went out of his way to endorse Mr. Dwight's statement, saying: "the evidence I have seen clearly supports that judgment."

And the evidence Mr. Morrill had—if we are to believe the testimony of Secretary Weinberger—clearly did support that judgment, Mr. Speaker.

But Mr. Morrill clearly was not interested in pursuing that evidence. For, as he admitted to me under questioning:

He had not consulted the rehabilitation experts in the field with respect to his plans; and

He had no evaluation to back up his contention that the rehabilitation program was ineffective.

In short, he had no evidence, but only ideology, to back up the drastic proposals with respect to rehabilitation which his memorandum outlined.

And when I asked Mr. Morrill how he could possibly reconcile the radical and unsupported attack on the rehabilitation program represented in his memo with

the high praise for the program which he expressed before our subcommittee, he implied that the planning memorandum was only a kind of academic exercise requiring tough questions so that he could get straight answers.

REHABILITATION UNDER NIXON

But that kind of explanation really does not hold water, Mr. Speaker—at least it does not with me, and it did not with my subcommittee.

For the Morrill memorandum comes to light not in a vacuum, but in the context of a long and continuous history of active opposition on the part of the administration to the rehabilitation program.

Consider that in the last 4 years we have seen:

Repeated vetoes of the Labor-HEW appropriations bill providing funds for the rehabilitation program;

Two vetoes of legislation to extend the vocational rehabilitation program;

Adamant hostility to the construction of facilities in the rehabilitation field;

The rehabilitation research budget cut in half from fiscal 1972 to fiscal 1973;

An attempt to kill the rehabilitation training programs after fiscal 1974.

We have seen the growth of the State programs virtually ground to a halt while the States are beginning to pull their own weight;

And we have seen the Rehabilitation Services Administration submerged more and more within the Social and Rehabilitation Service, while RSA staff is being reduced, and RSA research funds are diverted into other areas.

And I am sure that many of you recall the image of John Ehrlichman last March—then at the height of his powers as the President's Domestic Counselor—brandishing 15 bills, including the Rehabilitation Act, before the television cameras, and describing them as "budget-busters." Mr. Ehrlichman said:

These bills represent a $19 billion herd of Trojan horses that are thundering our way out of the Congress, brightly painted and outfitted with very attractive accessories.

So in the context of that attitude, and that history, Mr. Speaker, the emergence of this planning document is evidence, to me in any event, that this administration is now attempting to implement by administrative fiat what it has been unable to obtain by the passage of legislation.

In brief, I suspect that if this administration has its way, it will seek to render the Rehabilitation Act of 1973 inoperative.

Mr. Speaker, I have already cited the favorable statistics on vocational rehabilitation quoted by Secretary Weinberger during his confirmation hearings before the Senate Labor and Public Welfare Committee.

But I have recently come across additional evidence, from the State of Texas, which indicates the enormous value of this program which Mr. Morrill so carelessly suggested we "cash out."

I refer, Mr. Speaker, to the Texas Rehabilitation Commission's 1972 Report to the Governor, which indicated that in 1971–72 the commission services helped 2,254 individuals, receiving $3.4 million in welfare payments, to obtain employment worth $6.3 million in wages.

And the commission estimated, Mr. Speaker, that the dramatic turn-around was a contribution of $8.6 million to the economy of the State of Texas.

For the State saved $2.1 million in public assistance payments, as well as $405,000 in medicaid premium payments, in addition to the $6.3 million earned by the 2,254 individuals rehabilitated.

HUMAN FACTOR

But what I want to stress to my colleagues, today, Mr. Speaker, is that these figures, encouraging as they are, often hide the appalling human tragedies to which this legislation is addressed.

And I think, Mr. Speaker, that no better illustration of these problems could be found than a letter from 15-year-old Jeanette Larson to the Texas Rehabilitation Commission.

For Jeanette, though disabled in body, is not handicapped in spirit, and her letter describing her difficulties, and her hopes, expresses far better than I the great courage, as well as the great needs, exhibited by our handicapped fellow citizens.

I include her letter, Mr. Speaker, at this point in the RECORD:

DEAR SIR: My name is Jeanette Larson. I am fiftheen (sic) and one half years old. I am in the ninth grade in Del Rio, Texas. The school I attend is called San Felipe Del Rio consolodated (sic) Freshmen School.

Your name was given to me by a D.P.S. officer because I am handicapped and interested in finding a school that specializes in helping handicapped people depend upon themselves and not on others all the time.

My handicapps (sic) are my height because I am three feet and 10 inches tall. My legs are only 18 inches long and are curved where the kneed should be. Even though my legs don't bend I can still walk and run pretty good. (Not fast but fast enough for me.) My other handicapps (sic) are my hands. Both hands are bent inward. I only have three fingers and one thumb on each hand. I am interested in learning how to drive a car, and also learning some kind of work that I can do so I can go out and get a job so I won't always have to depend on someone else to take care of me.

I stated earlier that I am in nineth (sic) grade well I think I should tell you more about what kind of education I have had so here it goes: When I was 6 years old special education class—speech class, 1½ years.

7 yrs. old, 1st grade (regular), speech class 1 yr., 1 yr. 1st grade.

8 yrs. old, 2nd grade (regular), speech class 1 yr., 1 yr. 2nd grade.

9 yrs. old, 3rd grade (regular), speech class 1 yr., 1 yr. 3rd grade.

10 yrs. old, 4th grade (regular), speech class 1 yr., 1 yr. 4th grade.

11 yrs. old, 5th grade (regular), speech class 1 yr., 1 yr. 5th grade.

12 yrs. old, 6th grade (regular), speech class 1 yr., 1 yr. 6th grade.

13 yrs. old, 7th grade (regular), spanish class ½ yr., 1 yr. 7th grade.

14 yrs. old, 8th grade (regular), spanish class 1 yr., 1 yr. 8th grade.

15 yrs. old, 9th grade (regular), Homemaking class, 1 yr., 1 yr. 9th grade.

I worked at babysitting from 8:00 to 4:00 every day last summer taking care of my niece (sic) who was 2 to 4 months old. In October 1971 I started selling Avon in my spare time. I am still babysitting on weekends and I am still selling Avon.

My father died when I was about seven years old. My mother has given me permission to write you myself because she feels I can tell you more about what I am interested in than she can.

Any help or information you could send us would be greatly appreciated. If it would help us to find out more about one of these schools we would be more than willing to come to Austin to talk to you. So if you want to you can make the appointment and then write us and let us know and we will come down there or do whatever has to be done.

Sincerely,

JEANETTE LARSON,
BESSIE D. LARSON,
Mother.

P.S.—Our address is: 909 Ave. D., Del Rio, Texas 78840, Ph. 775-3993, Area Code 512.

Mr. Speaker, the Jeanette Larsons of this great land of ours need our continued support of the rehabilitation program.

I urge my colleagues to oppose the proposals so thoughtlessly drafted by high ranking officials of the Department of Health, Education, and Welfare.

DRUG PROGRAM EDUCATION PROGRAM EFFECTIVE

(Mr. BRADEMAS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, during the recent debate on the bill to extend the Drug Abuse Education Act, several of my colleagues expressed a concern that drug abuse education programs actually do more harm than good since they arouse the curiosity of students about dangerous drugs.

Several of us, however, Mr. Speaker, pointed out that the studies which had reached that conclusion evaluated, not educational programs, but the kinds of false and misinformed information programs which the Office of Drug Abuse Education does not support—and was not intended to support.

Mr. Speaker, a recent study has come to my attention which confirms that genuine educational efforts about the dangers of drugs can have a positive effect in changing drug-using behavior.

I refer to an evaluation of the SPARK—school prevention of addiction through rehabilitation and knowledge—drug abuse education program, recently completed by GEOMET, Inc., for the Special Action Office for Drug Abuse Prevention.

The SPARK program, Mr. Speaker, is operated by the New York City Board of Education, and Mr. Eugene P. Visco, a senior analyst for GEOMET, wrote that his study indicated:

An almost amazing relationship between participation in the SPARK program and behavior; such consistent results rarely appear in studies such as these. Further, the regression of the behavior of the students in the control population (non-participants in the SPARK program) is equally consistent and equally startling.

Mr. Speaker, because I believe that Mr. Visco's letter, and his study, speak for themselves, I insert them at this point in the RECORD:

GEOMET, INC.,
Rockville, Md., October 31, 1973.

BERNARD R. MCCOLGAN,
Special Action Office for Drug Abuse Prevention, Executive Office of the President, Washington, D.C.

DEAR BERNIE: I am enclosing three copies of the preliminary report of Phase I of the SPARK analysis. The report is preliminary because data from only two schools were available for the initial analysis and because pairing of the experimental subjects with control subjects has not yet been done. The report is issued at this time in accordance with our contractual agreement with you and because of your expressed immediate need for the information. I hope you will find it useful.

Briefly, the report provides a gross comparison between an experimental sample and an unmatched (as yet) control sample, with data representing high school students' behavior during the period of time: September 1971 to June 1972 and September 1972 to June 1973. The results indicate an almost amazing relationship between participation in the SPARK program and behavior; such consistent results rarely appear in studies such as these. Further, the regression of the behavior of the students in the control population (non-participants in the SPARK program) is equally consistent and equally startling.

We will continue to process the data, adding the information from the third school, carrying out the matching effort, and subjecting the comparisons to a variety of statistical tests. A complete report on Phase I will be issued when those analyses are completed.

I am prepared to discuss the information with you at your convenience. I will be out of town from 1 through 8 November, but can be reached through the office.

Sincerely,

EUGENE P. VISCO,
Senior Operational Analyst.

GEOMET REPORT, OCTOBER 31, 1973

(Preliminary report, phase I of SPARK program analysis, for Special Action Office for Drug Abuse Prevention)

INTRODUCTION

Background

This is the first report on the analysis of data representing the performance of the SPARK (School Prevention of Addiction through Rehabilitation and Knowledge) drug abuse program. The analysis is being carried out under the Basic Ordering Agreement 73-2 between the Special Action Office for Drug Abuse Prevention and GEOMET, Incorporated.

The New York City SPARK Program is: "The Nation's largest school-based program (approaching) addiction education and preventing through group and individual counseling, training of a peer leadership cadre, home visits, parent workshops, parent/child group sessions, community involvement, curriculum development, and in-service training for teachers."

Four major program goals have been established:

"Establishing a setting within each school where young people can go to learn to like themselves and cope with one another;

"Helping students to make decisions, solve problems, and in the process, to grow;

"Providing young people intellectual, social cultural and recreational alternative to drug abuse; and

"Improving communication with the existing services within each school."

The program is operated by the New York City Board of Education within the school system. Doctrine, guidance and staff recruitment, training, and assignment, as well as overall coordination is the responsibility of the SPARK Program Management group, an element of the Board of Education. The direct on-the-scenes activity of the program, in the 94 high schools making up the New York City secondary school system is the responsibility of the individual high school principals. The SPARK teams located in the schools are members of the individual school faculty and are supervised by the principal.

Three different types of SPARK teams are represented in the school system. They are:

One Drug Education Specialist (DES) at each of 45 schools;

One DES and one Instructor/Addiction at each of 40 schools; and

One DES, two Instructors/Addiction, and three additional professionals (usually including a psychologist, guidance counselors, or attendance teachers) at each of the remaining nine schools.

The last type of team configuration is responsible for the operation of an intervention and prevention center.

The program got underway about 1970. A full description of its development, organization, and operations will be included in a subsequent report. It is sufficient to state here that a brief analysis carried out early this year under the auspices of the New York Addiction Services Agency (ASA), the general delegate agency for drug abuse funds, indicated striking changes in behavior among the students who participated in the SPARK program. A major limitation of that analysis was that it sampled only SPARK enrollees and did not include observations of behavior among students who were not associated with SPARK. The analysis included SPARK involvement data for only the first semester of the 1972–1973 school year, compared with "baseline" data on the same students for a comparable semester (the previous year) before they became involved in the SPARK program.

To augment the observations of the ASA-sponsored analysis and to probe somewhat deeper into the performance of the SPARK program, SAODAP asked GEOMET to carry out "an evaluation of the SPARK high school drug abuse program in New York City in terms of changes in the functional behavior of students in an experimental group, as compared with a control group."

Technical approach

The basic approach is to compare the behavior of students in the SPARK program with students not in the SPARK program. Behavior is represented by four parameters: referrals for drug-related activity, instances of misbehavior (referred to as "acting-out behavior"), truancy, and classroom grades. Samples of students have been drawn from three of the nine schools that have intervention and prevention centers. The objective sample distribution is 100 SPARK students per school for a total sample size of 300 "experimental" subjects and 100 non-SPARK students per school for a total of 300 "control" subjects. The control samples are to be matched or "paired" with the experimental samples. The matching will be done in terms of the four behavior variables plus sex (gender) on the basis of data representing the students during the period September 1971 to June 1972 (before the SPARK population enrollment). The students are selected from the populations who were in the 9th and 10th grades during the baseline period; thus, they are in the 11th and 12th grades as of the beginning of the present school year. The matching will be done by computing the distributions of the various variables for the experimental group for the period prior to the group's entry into the program. Control samples will be selected on the basis of one-for-one pairing in terms of the same behavior characteristics for the same time period. In order to facilitate the data collection effort (carried out by members of the SPARK intervention and prevention center teams at the three schools), the same baseline period and first "treatment" period data were drawn for the experimental sample (100 students) and the larger control sample at the same time. The first "treatment" period is the period September 1972 to June 1973, or the first year of SPARK involvement for the experimental group.

Comparisons will be carried out covering the present school year (September 1973 to June 1974); plans also call for an interim data point at the end of the first semester (January 1974).

The behavior variables specifically represents:

The number of referrals for drug-related behavior from a wide range of sources including school security guards, professional staff members, family, and other students; and

The number of reported instances of misbehavior including fighting, abusive oral language, and stealing;

The total number of absences, unexcused absences, class cuttings, and tardiness events; and

Grades on at least the five basic courses generally required.

Since the data to be used are as filed in the various schools and some variations in data recording systems is expected, the analysis will be adjusted to make maximum use of the data in their original form.

STATUS AS OF OCTOBER 31, 1973

Three basic sets of data have been drawn, using random procedures, by the SPARK school staffs and are being processed at GEOMET. The data generally consist of the following information:

A student identification number (so the longitudinal data can be correctly drawn in the future);

Indication of the sample category (experimental or control);

The student's sex;

Whether or not the student is presently enrolled (for the data now in hand, all are still enrolled);

The number of referrals for drug-related behavior from: police, security guard, professional staff, self, family, other students, emergency room, other medical facility.

The number of events of acting-out behavior, categorized as: fighting with other students, fighting with staff, abusive oral language, disrupting classroom activities, inappropriate conduct in lunch or recreational areas, damaging school property, stealing from school, other students, or faculty, setting fires, setting false alarms.

The number of events associated with truant behavior as represented by: total absences, unexcused absences, classes cut, tardiness.

Final grades on six courses.

Data were not available on all elements at all schools. For example, there appear to be no (or very few) instances of "setting fires" or "false alarms." Similarly, information on unexcused absences is not filed at some schools. The composition of the samples is indicated in Table 1 below:

TABLE 1.—SAMPLE SIZE AND COMPOSITION

Group	School 1		School 2		School 3	
	Male	Female	Male	Female	Male	Female
Experimental	42	58	54	46	30	70
Control	111	90	81	75	60	140

As of this report, the data are in computer accessible form. The matching process, a somewhat tedious task, is underway. Initial frequency distributions have been computed for all the groups for Schools 1 and 2; the data for School 3 (slightly delayed) has only recently been prepared for entry into the computer and the distributions are not yet available. The preliminary results are presented in the next section.

PRELIMINARY RESULTS: TWO SCHOOLS

This section presents the tentative results obtained by analysis of the available data for two schools.

The results of principal concern are those that indicate the change in the experimental group over time. In interpreting these results it is important to recognize that the control population has not yet been matched. Thus, on the basis of the statistics computed from the entire population, results are only preliminary. It may be expected that the differences between the experimental and control groups for the first "treatment" period (September 1972 to June 1973) will change, given that the two groups are about the same (matched) for the baseline period. Tables 2 through 5 summarize the observations and display the summary data by school, by time period, and by sample group.

TABLE 2.—AVERAGE NUMBER OF REFERRALS FOR DRUG-RELATED BEHAVIOR (ALL SOURCES)

Group	School 1		School 2	
	1971–72	1972–73	1971–72	1972–73
Experimental	3.88	2.83	3.31	1.33
Control	1.31	1.86	1.79	4.91

TABLE 3.—AVERAGE NUMBER OF MISBEHAVIOR EVENTS (ALL TYPES OF ACTING-OUT BEHAVIOR)

Group	School 1		School 2 [1]	
	1971–72	1972–73	1971–72	1972–73
Experimental	12.84	6.05	14.28	3.89
Control	4.05	7.68	7.11	15.13

[1] Includes suspensions; data not available for School 1.

TABLE 4.—AVERAGE NUMBER OF TOTAL ABSENCES

Group	School 1		School 2	
	1971–72	1972–73	1971–72	1972–73
Experimental	21.15	19.16	17.87	12.06
Control	23.96	33.52	28.24	33.90

TABLE 5.—AVERAGE GRADES (5 COURSES)

Group	School 1		School 2	
	1971–72	1972–73	1971–72	1972–73
Experimental	64.18	69.32	60.86	70.29
Control	60.46	48.48	52.38	40.73

The preliminary data indicate that the number of referrals for drug related activity for members of the experimental group (in the SPARK Program) decreased, while the number of referrals for members of the control group (not in the SPARK Program) increased from the baseline period to the 1972–73 period. The same is essentially true for the number of absences. In the case of average grades, the grades for the members of experimental group were higher during the period they were in the Program than before, while the grades for the control group members dropped during the same period.

Although there are many factors that may influence the results presented here, we can tentatively conclude that there is an association between participation in the SPARK Program and improvement in the attributes of socially desirable behavior. In turn this result may mean that there is some "treatment" to which the SPARK-enrolled students are exposed that affects their behavior in a positive or "good" manner. Correspondingly, there is some influence or treatment to which the non-SPARK students are exposed that has the opposite effect. The data indicate these observations without exception. Such consistancy is quite rare in analyses of the present type.

* * * * *

ARREST RECORD INFORMATION IN JEOPARDY

(Mr. EDWARDS of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, the conference report on H.R. 8916, the appropriations bill for the Departments of State, Justice, Commerce, the judiciary and related agencies, contains language which seriously jeopardizes the authority of the Federal Bureau of Investigation to disseminate arrest record information to State and local governments.

For the past 2 years the Justice Department with the help of the House Appropriations Committee has been attempting, by an appropriations order, to reverse the decision in the case of *Menard* v. *Mitchell*, 328 F. Supp. 718 (1971). This decision prohibited the FBI's dissemination of arrest and fingerprint records to nonlaw-enforcement agencies. Riders were added to both the fiscal year 1972 and 1973 appropriations bills which would temporarily suspend the rule of the Menard case. When the fiscal year 1973 appropriations measure came before the House, I was sustained on a point of order striking the rider since such a rider was in violation of the House rule prohibiting the inclusion of substantive legislation in an appropriations bill. The conference report on that bill reinserted compromise language which again temporarily suspended the Menard order. However, when the administration presented its fiscal 1974 budget, it took the position that the language contained in the fiscal year 1973 appropriations measure had the effect of making the rider into permanent legislation and that the Menard order has been permanently repealed by enactment of the appropriations measure.

The idea that the rider accompanying the fiscal year 1973 appropriations measure is permanent legislation was, this year, rejected by both the Senate Appropriations Committee and the full Senate when both bodies voted to include the Bible-Ervin rider in this year's appropriations bill. The Bible-Ervin rider sought to rectify this situation by providing a definite legislative foundation for the FBI's dissemination of arrest record information and by distinctly defining the scope of the FBI's authority to disseminate this information. Since the Bible-Ervin rider was deleted by the conference, it would appear that the issue is once again unresolved and that the entire FBI fingerprint and arrest record operation has once again been placed in a state of limbo.

This year's conference report states that—

The conferees understand that this matter is before the Judiciary Committees of the House and the Senate and urge expeditious consideration thereof.

Since the conference has clearly asked that the Judiciary Committees of both Houses move quickly to resolve the legal ambiguity surrounding this matter, I am today proposing legislation which will temporarily resolve the controversy created by the conference committee's action. This legislation would, in effect, enact the Bible-Ervin rider into substantive law, but only until the end of the current Congress. This legislation is intended to give only temporary authority because I believe that more comprehensive legislation, such as my own H.R. 188 is need to deal with the issue of dissemination of information from law enforcement data banks and information systems. However, in the interim, I believe that temporary corrective legislation is needed in order to safeguard the FBI fingerprint operation from adverse court decisions which might result from the conflicting authorities created by the Menard decision and the confusing legislative history of the appropriations riders.

OKLAHOMA'S TEACHER OF THE YEAR

(Mr. ALBERT (at the request of Mr. STARK) was given permission to extend his remarks at this point in the RECORD, and to include extraneous material.)

Mr. ALBERT. Mr. Speaker, I wish to call the attention of my colleagues to an interesting article which appeared in the November 1973 issue of the Oklahoma Teacher, the magazine published monthly by the Oklahoma Education Association, about Oklahoma's 1973 Teacher of the Year. Mrs. Valerie Carolina of Wewoka, Okla., is the first black teacher to receive the State honor. I salute her. The article follows:

VALERIE CAROLINA—OKLAHOMA TEACHER OF THE YEAR

(By Patty Anderson)

A living example of honesty, integrity and commonsense is Oklahoma's 1973 Teacher of the Year, Mrs. Valerie Carolina of Wewoka.

Mrs. Carolina, who teaches the second grade at Wewoka Elementary School, has engaged herself in boundless activities not only in the Wewoka school system but also the community.

Among her many activities are memberships in several professional organizations. She holds memberships in the OEA–NEA and the state ACT where she has served as ACT Vice-President. Mr. Carolina is also a member of the American Association of University Women (AAUW) and the Oklahoma Reading Council.

Her participation in community activities include a variety of humanistic projects. She is a member of the St. Paul Baptist Church where she is an adult leader for teenagers that go to church camp each year. During her tenure as president of the Penny Unit of the Federated Clubs, she was a great influence in organizing groups to render programs for the aged.

Rev. E. C. Walters, pastor of the St. Paul Baptist Church describes Mrs. Carolina as "a person whose love for people is exemplified through her many acts of kindness to all with whom she is associated—young and old alike, and through many Christian acts to those who are less fortunate."

A woman who is endowed with an abundance of energy, knowledge, love for children, know-how and initiative are words used by Carl Roblyer, superintendent of Wewoka City Schools, to describe Mrs. Carolina's abilities.

Camilla Nash, principal of Wewoka Elementary School, says "Mrs. Carolina has that rare ability to take a slow child and somehow convince him that he is as smart as anyone in the room. Once she has convinced him of this, he is on his way to becoming just that."

One of the best ways to describe Mrs. Carolina is to quote a parent of one of her children when he said, "Mrs. Carolina has made my child believe that he is the most important child in her room. I'm sure all the other children feel the same way."

The Teacher of the Year award is given to the outstanding teacher selected from more than 100 teachers nominated by local units of the OEA. The event is co-sponsored by the Oklahoma Education Association, the Oklahoma City Chamber of Commerce, the State Fair of Oklahoma and the Oklahoma City Hotel and Motor Hotel Association.

Mrs. Carolina, the first black teacher to receive the state honor, and other nominees were honored at a Chamber of Commerce Luncheon held in the Myraid Convention Center.

Being a winner of the State Teacher of the Year award, Mrs. Carolina becomes eligible to compete for the title of "National Teacher of the Year".

Mrs. Carolina has devoted 27 years to the teaching profession. She has taught eight years at Wewoka. Previously, she taught 14 years at New Lima, two years at Poteau, two years at Spiro, and one year at San Angelo, Texas. She holds a bachelor's degree in English from Langston University, and a master's degree in education from Oklahoma University.

The best way to describe how the Wewoka community feels about Mrs. Carolina can be quoted from the Seminole County OEA unit that nominated her. "We think our community is a better place to live because Valerie Carolina lives here."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. KLUCZYNSKI (at the request of Mr. O'NEILL), for today, on account of official business of the Committee on Public Works.

Mr. DELLUMS (at the request of Mr. O'NEILL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mrs. GREEN of Oregon, for 60 minutes, on Thursday, November 15, 1973, and to include extraneous material.

(The following Members (at the request of Mr. PEYSER) and to revise and extend their remarks and include extraneous matter:)

Mr. COHEN, for 10 minutes, today.

Mr. MILLER, for 10 minutes, today.

Mrs. HECKLER of Massachusetts, for 10 minutes, today.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. STARK) and to revise and extend their remarks and include extraneous matter:)

Mr. DENT, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. FUQUA, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. Moss, for 5 minutes, today.

Mr. STARK, for 5 minutes today.

Mr. CAREY of New York, for 5 minutes, today.

Mr. FULTON, for 5 minutes, today.

Mr. DRINAN, for 10 minutes, today.

Ms. ABZUG, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SIKES to revise and extend his remarks and include extraneous matter and tabulations.

(The following Members (at the request of Mr. PEYSER), and to include extraneous matter:)

Mr. BROYHILL of Virginia in two instances.

Mr. ESCH.

Mr. STEIGER of Wisconsin.

Mr. SARASIN.

Mr. ERLENBORN.

Mr. HOSMER in two instances.

Mr. HUBER in three instances.

Mr. GOODLING.

Mr. DERWINSKI in three instances.

Mr. CRANE in five instances.

Mr. FROEHLICH.

Mr. DICKINSON.

Mr. HUDNUT.

Mr. BURGENER.

Mr. ROUSSELOT.

Mr. MCCLORY in two instances.

Mr. RAILSBACK.

Mr. LENT in five instances.

Mr. BAUMAN in two instances.

Mr. BEARD in two instances.

Mr. HOGAN.

Mr. KING in two instances.

(The following Members (at the request of Mr. STARK) and to include extraneous material:)

Mr. MCSPADDEN in two instances.

Mr. PICKLE in 10 instances.

Mr. DRINAN.

Mr. HARRINGTON in five instances.

Mr. GONZALEZ in three instances.

Mr. RARICK in three instances.

Mr. Moss.

Mr. KARTH.

Mr. OBEY in three instances.

Mr. STOKES.

Mr. ROONEY of Pennsylvania in three instances.

Mr. LEHMAN.

Mr. ADDABBO.

Mr. ST GERMAIN in five instances.

Mr. WALDIE in two instances.

Mr. ROE in five instances.

Mr. VANIK in three instances.

Mr. KASTENMEIER.

Ms. ABZUG in 10 instances.

Mr. BRINKLEY.

Mr. HAWKINS.

Mr. MILFORD.

Ms. HOLTZMAN in 10 instances.

Mr. ROONEY of New York.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2315. An act relating to the compensation of employees of Senate committees; to the Committee on Post Office and Civil Service.

ENROLLED BILLS SIGNED

Mr. HAYS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3801. An act to extend Civil Service Federal Employees Group Life Insurance and Federal Employees Health Benefits coverage to United States nationals employed by the Federal Government;

H.R. 5692. An act to amend title 5, United States Code, to revise the reporting requirement contained in subsection (b) of section 1308;

H.R. 8219. An act to amend the International Organizations Immunities Act to authorize the President to extend certain privileges and immunities to the Organization of African Unity; and

H.R. 8916. An act making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1570. An act to authorize and require the President of the United States to allocate crude oil, residual fuel oil, and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority; and for other purposes; and

S. 2645. An act to amend Public Law 93–60 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

ADJOURNMENT

Mr. STARK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 5 minutes p.m.), the House adjourned until tomorrow, Thursday, November 15, 1973, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1554. A letter from the Secretary of Health, Education, and Welfare, transmitting the third annual report on the Department's administration of the black lung benefits program, pursuant to section 426(b) of Public Law 91–173 (30 U.S.C. 936(b)); to the Committee on Education and Labor.

1555. A letter from the Acting Secretary of State, transmitting reports of the Secretary of Commerce and the Acting Secretary of the Interior on the implementation of the international program of the Marine Mammal Protection Act of 1972, pursuant to section 108(a)(6) of the Act (16 U.S.C. 1361); to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DONOHUE: Committee of conference. Conference report on H.R. 7446; with amendment (Rept. No. 93–639). Ordered to be printed.

Mr. EVINS of Tennessee: Select Committee on Small Business. Report on the role of small business in franchising (Rept. No. 93–640). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMPSON of New Jersey: Committee on House Administration. House Resolution 702. Resolution to provide funds for the Committee on the Judiciary; with amendment (Rept. No. 93–641). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California (for himself, Mr. ADAMS, Mr. BADILLO, Mr. BRASCO, Mrs. BURKE of California, Mrs. COLLINS of Illinois, Mr. COTTER, Mr. DELLUMS, Mr. DULSKI, Mr. GILMAN, Mrs. GRASSO, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. LEGGETT, Mr. MOAKLEY, Mr. MOSS, Mr. O'HARA, Mr. ROSENTHAL, Mr. ROYBAL, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. CHARLES H. WILSON of California, Mr. WOLFF, and Mr. WON PAT):

H.R. 11460. A bill to improve the service which is provided to consumers in connection with escrow accounts on real estate mortgages, to prevent abuses of the escrow system, to require that interest be paid on escrow deposits, and for other purposes; to the Committee on Banking and Currency.

By Mr. BROYHILL of Virginia:

H.R. 11461. A bill to protect the consumer against worthless money orders, and for other purposes, to the Committee on Banking and Currency.

H.R. 11462. A bill to provide for the licensing by the District of Columbia of the business of selling, issuing, or delivering checks, drafts, and money orders as a service or for a fee or other consideration in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. DON H. CLAUSEN (for himself, Mr. ARMSTRONG, and Mr. RINALDO):

H.R. 11463. A bill to amend chapter 29 of title 18, United States Code, to prohibit certain election campaign practices, and for other purposes; to the Committee on House Administration.

By Mr. COHEN:

H.R. 11464. A bill to amend title VII of the Elementary and Secondary Education Act of 1965 to extend, improve, and expand programs of bilingual education, teacher training, and child development; to the Committee on Education and Labor.

By Mr. COLLIER:

H.R. 11465. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes; to the Committee on the District of Columbia.

By Mr. CORMAN (for himself, Mr. RINALDO, Mr. WHALEN, and Mr. HICKS):

H.R. 11466. A bill to amend the Social Security Act to provide the States with maximum flexibility in their programs of social services under the public assistance titles of the act; to the Committee on Ways and Means.

By Mr. DENNIS (for himself, Mr. MCCLORY, Mr. HUTCHINSON, Mr. SMITH of New York, Mr. SANDMAN, Mr. MAYNE, Mr. HOGAN, Mr. BUTLER, Mr. COHEN, Mr. LOTT, Mr. MOORHEAD of California, Mr. MEZVINSKY, and Mr. FLOWERS):

H.R. 11467. A bill to define the powers and duties and to place restrictions upon the grounds for removal of the Special Prosecutor appointed by the Acting Attorney General of the United States on November 5, 1973, and for other purposes; to the Committee on the Judiciary.

By Mr. DONOHUE:

H.R. 11468. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, and propane gas until he determines that no shortage of such fuels exists in the United States; to the Committee on Banking and Currency.

By Mr. DORN:

H.R. 11469. A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FRASER (for himself, Mr. MEEDS, Ms. MINK, Mr. MOAKLEY, Mr. MOLLOHAN, Mr. MOSHER, Mr. PEPPER, Mr. PODELL, Mr. RANGEL, Mr. RIEGLE, Mr. RODINO, Mr. ROSENTHAL, Mr. ROYBAL, Mr. SARBANES, Ms. SCHROEDER, Mr. SEIBERLING, Mr. STUDDS, Mr. THOMPSON of New Jersey, Mr. TIERNAN, Mr. WHITEHURST, Mr. CHARLES H. WILSON of California, Mr. WOLFF, Mr. YOUNG of Georgia, and Mr. GAYDOS):

H.R. 11470. A bill to limit the medicare inpatient hospital deductible; to the Committee on Ways and Means.

By Mrs. GRASSO (for herself, Mr. ASHLEY, Mr. BADILLO, Mr. BINGHAM, Mr. BOLAND, Mr. BRASCO, Mr. BROWN of California, Mr. BURKE of Massachusetts, Mr. CARNEY of Ohio, Mr. COHEN, Mrs. COLLINS of Illinois, Mr. DELLUMS, Mr. DRINAN, Mr. EDWARDS of California, Mr. FASCELL, Mr. WILLIAM D. FORD, Mr. FROEHLICH, Mr. GREEN of Pennsylvania, Mr. GUNTER, Mr. HAMILTON, Mr. HARRINGTON, Mr. HELSTOSKI, Mr. HICKS, Mr. LEHMAN, and Mr. MCDADE):

H.R. 11471. A bill to limit the medicare inpatient hospital deductible; to the Committee on Ways and Means.

By Mr. GRIFFITHS (for herself, Mr. CORMAN, and Mr. MOAKLEY):

H.R. 11472. A bill to create a national system of health security; to the Committee on Ways and Means.

By Mr. GUNTER (for himself, Mr. RINALDO, and Mr. WHITEHURST):

H.R. 11473. A bill to prohibit the importation into the United States of meat or meat products from livestock slaughtered or handled in connection with slaughter by other than humane methods; to the Committee on Agriculture.

By Mr. ICHORD:

H.R. 11474. A bill to change Veterans' Day to November 11; to the Committee on the Judiciary.

By Mr. SATTERFIELD:

H.R. 11475. A bill to amend the Clean Air Act to modify the emission standards required for light duty motor vehicles and engines manufactured during model year 1975 and thereafter; to the Committee on Interstate and Foreign Commerce.

By Mr. WYATT:

H.R. 11476. A bill to direct the President to halt all exports of gasoline, distillate fuel oil, and propane gas until he determines that no shortage of such fuels exists in the United States; to the Committee on Banking and Currency.

H.R. 11477. A bill to provide for the conservation of energy by amending the Internal Revenue Code of 1954 to permit a taxpayer an income tax deduction for insulation improvement or repair expenditures; to the Committee on Ways and Means.

By Ms. ABZUG:

H.R. 11478. A bill to authorize and direct the President to develop and implement certain federally sponsored incentives relating to mass transportation; to the Committee on Public Works.

By Mr. CAREY of New York:

H.R. 11479. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER:

H.R. 11480. A bill to establish an Energy Management and Conservation Corporation, and for other purposes; to the Committee on Interior and Insular Affairs

By Mr. CLARK:

H.R. 11481. A bill to prohibit the export of the energy resources of the United States; to the Committee on Banking and Currency.

By Mr. DELANEY:

H.R. 11482. A bill to provide that daylight saving time shall be observed on a year-round basis; to the Committee on Interstate and Foreign Commerce

By Mr. EDWARDS of California:

H.R. 11483. A bill to protect the constitutional rights of the subjects of arrest records and to authorize the Federal Bureau of Investigation to disseminate conviction records to State and local government agencies and for other purposes; to the Committee on the Judiciary

By Mr. FULTON:

H.R. 11484. A bill to amend section 101 (1) (3) of the Tax Reform Act of 1969 in respect of the application of section 4942(d) of the Internal Revenue Code of 1954 to private foundations subject to section 101 (1) (4) of the Tax Reform Act of 1969; to the Committee on Ways and Means.

By Mr. FUQUA:

H.R. 11485. A bill to prohibit the export of domestically extracted crude oil, and any petroleum products made from such oil, unless Congress first approves such exportation; to the Committee on Banking and Currency.

By Mr. HANLEY:

H.R. 11486. A bill to protect the public health and welfare by providing for the inspection of imported dairy products and by requiring that such products comply with certain minimum standards for quality and wholesomeness and that the dairy farms on which milk is produced and the plants in which such products are produced meet certain minimum standards of sanitation; to the Committee on Agriculture.

By Mr. HANRAHAN (for himself and Mr. COUGHLIN):

H.R. 11487. A bill to provide that daylight savings time shall be observed on a year-round basis; to the Committee on Interstate and Foreign Commerce.

By Mr. KASTENMEIER:

H.R. 11488. A bill to amend title 35 of the United States Code to provide a remedy for postal interruptions in patent and trademark cases; to the Committee on the Judiciary.

By Mr. KEMP:

H.R. 11489. A bill to require that a percentage of U.S. oil imports be carried on U.S.-flag vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. MCKINNEY (for himself and Mr. WALSH):

H.R. 11490. A bill to amend the Federal

Food, Drug, and Cosmetic Act with respect to dietary supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PATTEN:

H.R. 11491. A bill to amend the Urban Mass Transportation Act of 1964 to permit financial assistance to be furnished under that act for the acquisition of certain equipment which may be used incidentally for charter or sightseeing purposes, and for other purposes; to the Committee on Banking and Currency.

H.R. 11492. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

By Mr. KOCH (for himself and Mr. BRASCO):

H.J. Res. 825. Joint resolution prohibiting urban mass transportation systems from raising their fares above present levels during a 2-year period, and providing for the payment of operating subsidies to urban mass transportation systems which incur deficits as a result of such prohibition; to the Committee on Banking and Currency.

By Mr. POWELL of Ohio:

H.J. Res. 826. Joint resolution authorizing the President to proclaim the period from February 17 to February 23 as Sertoma Freedom Week, and to call upon the people of the United States and interested groups and organizations to observe such period with appropriate ceremonies and activities; to the Committee on the Judiciary.

By Mr. WHITEHURST (for himself and Mr. DENNIS):

H.J. Res. 827. Joint resolution proposing an amendment to the Constitution of the United States; to the Committee on the Judiciary.

By Mr. FUQUA:

H. Con. Res. 379. Concurrent resolution calling for the President to curtail exports of goods, materials, and technology to nations that restrict the flow of oil to the United States; to the Committee on Banking and Currency.

By Mr. HUDNUT (for himself and Mr. ECKHARDT):

H. Con. Res. 380. Concurrent resolution expressing the sense of Congress concerning the use of chauffeur driven limousines by the Federal Government; to the Committee on Government Operations.

By Mr. THOMPSON of New Jersey:

H. Res. 702. Resolution to provide funds for the Committee on the Judiciary; to the Committee on House Administration.

By Mr. STARK:

H. Res. 703. Resolution impeaching Richard M. Nixon, President of the United States for high crimes and misdemeanors; to the Committee on the Judiciary.

SENATE—*Wednesday, November 14, 1973*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, amid the confusion of our times, we pause to open our hearts and minds to Thy presence. Give us the wisdom to discern the spirits—whether they be of God or of the enemy of man's soul. Above all other voices may we hear Thy clear voice saying "This is the way, walk in it." Support the President and the Congress in all righteous endeavors. From troubled times make triumphant souls and in difficult days wilt Thou produce dividends of character and grace. Guide those whose labor makes for peace and justice in the world. May Thy will be done and Thy kingdom be nearer its fulfillment because we serve Thee here.

In His name who is King of Kings and Lord of Lords. Amen.

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT

Under authority of the order of the Senate of November 13, 1973, Mr. MCGEE, from the Committee on Post Office and Civil Service, reported favorably, without amendment, on November 13, 1973, the bill (S. 2673) to insure that the compensation and other emoluments attached to the office of Attorney General are those which were in effect on January 1, 1969, and submitted a report (No. 93-499) thereon, which was printed.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, November 13, 1973, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed without amendment the Senate bill (S. 2645) to amend Public Law 93-60 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1570) to authorize the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8916) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies for the fiscal year ending June 30, 1974, and for other purposes; that the House had receded from its disagreement to the amendments of the Senate numbered 24, 26, 27, 39, and 50 to the bill and concurred therein; and that the House had receded from its disagreement to the amendments of the Senate numbered 30, 37, and 46, and concurred therein severally with an amendment in which it requests the concurrence of the Senate.

The message also announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 5874) to establish a Federal Financing Bank, to provide for coordinated and more efficient financing of Federal and federally assisted borrowings from the public, and for other purposes, agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ULLMAN, Mr. BURKE of Massachusetts, Mrs. GRIFFITHS, Mr. SCHNEEBELI, and Mr. COLLIER were appointed managers of the conference on the part of the House.

The message further announced that the House had agreed to the concurrent resolution (H. Con. Res. 378) providing for an adjournment of the House from November 15 to November 26, 1973, in which it requests the concurrence of the Senate.

The message also informed the Senate that pursuant to the provisions of section 9(b), Public Law 89-209, as amended by section 2(a)(8), Public Law 93-133, the Speaker appointed Mrs. GRASSO a member of the Federal Council on the Arts and Humanities.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 1081. An act to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil pipeline, and for other purposes; and

S. 2645. An act to amend Public Law 93-60 to increase the authorization for appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PROVIDING FOR THE CONVEYANCE OF CERTAIN LANDS TO THE STATE OF LOUISIANA

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 9295.

The PRESIDENT pro tempore laid before the Senate H.R. 9295 which was read by title as follows:

H.R. 9295, an act to provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the bill be considered as having been read twice by its title and that the Senate proceed to its immediate consideration. It is identical to S. 2477 which the Senate passed on yesterday.

The PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana?

There being no objection, the bill, H.R. 9295, was considered, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the passage yesterday of S. 2477 be reconsidered and that the bill be indefinitely postponed.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, if the distinguished Republican leader would not mind, I should like to yield to him at this time if he has any remarks to make.

THE WHITE HOUSE TAPE OF MARCH 21

Mr. HUGH SCOTT. Mr. President, I just want to say briefly, for clarification of the record, there has been so much talk about the tapes that one of the facts that should be more widely known, I think, is that it is a reasonable conclusion the tape of March 21 will show Mr. Dean made some reference—and I do not know his exact words because I have not heard the tape—Mr. Dean made some reference to the President along the lines of "This is the first time I have told you about these things," and that after a summation of some very deplorable behavior, the President expressed shock and dismay.

If that is borne out in the hearing before Judge Sirica—and I hope later publication—it will also make false the statement by Mr. Dean that he had spoken to the President earlier on this matter, in the previous September and on March 13.

I make this statement simply because I believe it is impossible or very hard to have much notice given to it. It is probably the crucial point in all the discussions of Watergate. That is my judgment, my best information, about what will appear. I make the statement again for that reason.

I hope the proceedings on the relevancy of the tapes and of the material which can be submitted to the grand jury will be acted upon promptly by the Federal district court. I have great respect for the judge of that court. I believe he would be eager to expedite these proceedings. I know it is in the interest of the country that they be expedited so that the truth can be made available not only to the grand jury, but also to the American people as soon as possible—and the sooner the better.

COMPENSATION AND OTHER EMOLUMENTS ATTACHED TO THE OFFICE OF ATTORNEY GENERAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 474, S. 2673.

The PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2673) to insure that the compensation and other emoluments attached to the Office of Attorney General are those which were in effect on January 1, 1969.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MANSFIELD. Mr. President, I take it that the assistant majority leader is going to exercise the use of the 15 minutes which the Senate granted to him yesterday. If that is not sufficient time, I should like permission to transfer my 15 minutes to the distinguished Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader. I ask unanimous consent that I now be recognized under the order, without prejudice to the distinguished Senator from Michigan (Mr. GRIFFIN), who also has an order.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2673 be referred to the Committee on the Judiciary with instructions that the bill be reported back to the Senate not later than the hour of midnight on Tuesday next, and without amendments.

Mr. HUGH SCOTT. I have no objection.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the distinguished Republican leader.

ANALYSIS OF THE EFFICACY OF REMEDIAL LEGISLATION TO REMOVE AN OFFICE HOLDING DISQUALFICATION IMPOSED BY ARTICLE I, SECTION 6, CLAUSE 2 OF THE CONSTITUTION

Mr. ROBERT C. BYRD. Mr. President, the nomination of Senator WILLIAM SAXBE to the Office of Attorney General has raised a question whether he is eligible for appointment under article I, section 6, clause 2 of the Constitution. That provision states:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; . . .

The background of the situation is as follows: Under Public Law 90–206, 2 U.S.C. 351, et seq., approved December 16, 1967, Congress established the Commission on Executive, Legislative, and Judicial Salaries. The Commission is required to make recommendations to the President, at 4-year intervals, on the rates of pay for Senators, Representatives, Federal judges, Cabinet officers and other executive, legislative, and judicial officials. The law requires that the President, in the budget next submitted by him after receipt of a report of the Commission, set forth his recommendations with respect to the exact rates of pay he deems advisable for those offices and posions covered by the law. The President's recommendations become effective 30 days following transmittal of the budget, unless in the meantime other rates have been enacted by law or at least one House of Congress has enacted legislation which specifically disapproves of all or a part of the recommendations.

Pursuant to section 225(h) of the act, 2 U.S. Code section 359(h), President Nixon transmitted to the Congress on January 15, 1969, recommendations which, inter alia, proposed raising the salary of the Attorney General from $35,000 to $60,000 per year. On February 4, 1969, the Senate debated Senate Resolution 82, which would disapprove the Presidential recommendation. The resolution was defeated, with Senator SAXBE, whose term began on January 4, 1969, voting with the majority; CONGRESSIONAL RECORD, volume 115, part 2, page 2716. The pay raises became effective shortly thereafter.

It seems clear to me from the above that, under the present circumstances, any Senator who was elected or reelected in 1968 is ineligible for appointment as Attorney General until the end of his term on January 3, 1975, since it is an office the compensation of which has been increased during that 6-year term in office. However, on November 5, 1973, the House and Senate received from the Acting Attorney General a draft of proposed legislation which would roll back the compensation and other emoluments of the Attorney General to what they were on January 1, 1969, prior to the raise.[1] Daily CONGRESSIONAL RECORD, November 5, 1973, page 35884.

The question squarely put then is whether the constitutional disqualification, once applicable, may be rendered inoperative or satisfied thereafter by remedial legislation. Analysis of the origins of the constitutional provision, and subsequent precedents, leads to considerable doubt that, once the constitutional condition exists, that is, an increase in the compensation of an office, Members of Congress may be appointed to the office for the remainder of their term and that the prohibition may be lifted for the benefit of a potential appointee by a subsequent legislative act nullifying the disqualifying condition.

CONSTITUTIONAL DEBATES OF 1787

A review of the Philadelphia debates concerning the emoluments clause reveals almost universal agreement as to the general purpose underlying it, to wit, that some protection was necessary

[1] The proposed legislation would provide: "That the compensation and other emoluments attached to the Office of Attorney Genenral shall be those which were in effect on January 1, 1969, notwithstanding the provisions of the Salary Recommendations for 1969 Increases transmitted to the Congress on Jan. 15, 1969.

against possible corruption of members of the legislature resulting from the lure of civil office. The framers saw two potential sources of evil: first, that legislators might view their election to the Congress as a stepping stone to some lucrative public office and utilize their positions in the legislature as a means of creating or increasing the compensation of such sought-after offices; and, second, that an unscrupulous executive might use the enticement of public office to influence members of the legislature. Although there was general agreement on the underlying potential evil, there was a divergence of opinion as to how best to express the disqualification necessary to effect the prohibition. Significant here is that the few statements against imposing any disqualification apparently were not based on the belief that the apprehended evil was unwarranted or irrational. Rather it was founded on the view that the legislature would attract the best men in the Nation and it would be unwise to make ineligible for public office the most able men in the Republic. The prohibition, therefore, actually represents a compromise in an area in which there was agreement both as to the evil to be contained and on disqualification as the method of containment, but disagreement as to the duration of the disqualification. The evolution of the clause during the course of the convention illustrates these points.[2]

First mention of the prohibition appears in Randolph's resolutions—Virginia plan—of May 29, Nos. 4 and 5 of which would have rendered members of both houses "to be ineligible to any office established by a particular State, or under the authority of the United States, except those peculiarly belonging to the functions of—each branch—during the term of service, and for the space of—unspecified years—after its expiration." Farrand, volume 1, pages 20–21. On June 12 the period of ineligibility was fixed at 1 year after expiration of members' term of office. Farrand, volume 1, pages 217; 228–229. Thereafter, several attempts to remove the disqualification clause in its entirety, or to modify it, were defeated. Farrand, volume 1, pages 375–377, 379–382, 386–390, 391–394. The leading advocate for modification was Madison. On June 22 and 23 he proposed that disqualification attach only where an office was created or the compensation of an old office was increased. Essentially, proponents of total disqualification resisted modification out of fear that a lesser restriction would be too easy to evade. On July 26 the following language was referred to the Committee on Detail:

That the Members of the [first and] second branch of the Legislature of the United States ought to be ineligible to, and incapable of holding, any office under the authority of the United States (except those peculiarly belonging to the functions of the [first and] second branch) during the term for which they are elected, and for one year thereafter. (Farrand, vol. 2, pp. 129–130).

On August 6 the Committee on Detail reported out the provision, then embodied in article I, section 9, as follows:

The members of each House shall be ineligible to, and incapable of holding, any office under the authority of the United States during the time for which they shall respectively be elected; and the Members of the Senate shall be ineligible to, and incapable of holding, any such office for one year afterwards. (Farrand, vol. 2, p. 180).

At that point, then, the only change found necessary by the committee was to eliminate the additional 1-year disability for House members. The discrimination against the Senate would appear to relate to the key role given it in the nomination and confirmation process.

On September 3 the final debate on the provision took place. The language agreed to is similar to that ultimately adopted. Farrand, volume 2, pages 489–492. The debate appears as follows:

Mr. Pinkney moved to postpone the Report of the Committee of Eleven (see Sept. 1) in order to take up the following,

"The members of each House shall be incapable of holding any office under the U— S— for which they or any other for their benefit, receive any salary, fees or emoluments of any kind, and the acceptance of such office shall vacate their seats respectively." He was strenuously opposed to an ineligibility of members to office, and therefore wished to restrain the proposition to a mere incompatibility. He considered the eligibility of members of the Legislature to the honorable offices of Government, as resembling the policy of the Romans, in making the temple of virtue the road to the temple of fame.

On this question

N. H. no. Mas. no. Ct no— N— J. no. Pa ay. Md. no Va. no N.C ay SC—no Geo. no. [Ayes—2; noes—8.]

Mr. King moved to insert the word "created" before the word "during" in the Report of the Committee. This he said would exclude the members of the first Legislature under the Constitution, as most of the Offices wd. then be created.

Mr. Williamson 2ded. the motion.[9] He did not see why members of the Legislature should be ineligible to *vacancies* happening during the term of their election.[10]

Mr. Sherman was for entirely incapacitating members of the Legislature. He thought their eligibility to offices would give too much influence to the Executive. He said the incapacity ought at least to be extended to cases where salaries should be *increased*, as well as created, during the term of the member. He mentioned also the expedient by which the restriction could be evaded to wit: an existing officer might be translated to an office created, and a member of the Legislature be then put into the office vacated.

Mr. Govr. Morris contended that the eligibility of members to office wd. lessen the influence of the Executive. If they cannot be appointed themselves, the Executive will appoint their relations & friends, retaining the service & votes of the members for his purposes in the Legislature. Whereas the appointment of the members deprives him of such an advantage.

Mr. Gerry though the eligibility of members would have the effect of opening batteries agst. good officers, in order to drive them out & make way for members of the Legislature.

Mr. Gorham was in favor of the amendment. Without it we go further than has been done in any of the States, or indeed any other Country. The experience of the State Governments where there was no such ineligibility, proved that it was not necessary; on the contrary that the eligibility was among the inducements for fit men to enter into the Legislative service.

Mr. Randolph was inflexibly fixed against inviting men into the Legislature by the prospect of being appointed to offices.

Mr. Baldwin remarked that the example of the States was not applicable. The Legislatures there are so numerous that an exclusion of their members would not leave proper men for offices. The case would be otherwise in the General Government.

Col. Mason. Instead of excluding merit, the ineligibility will keep out corruption, by excluding office-hunters.

Mr. Wilson considered the exclusion of members of the Legislature as increasing the influence of the Executive as observed by Mr Govr Morris at the same time that it would diminish, the general energy of the Government. He said that the legal disqualification for office would be odious to those who did not wish for office, but did not wish either to be marked by so degrading a distinction—

Mr. Pinkney. The first Legislature will be composed of the ablest men to be found. The States will select such to put the Government into operation. Should the Report of the Committee or even the amendment be agreed to, The great offices, even those of the Judiciary Deparment which are to continue for life, must be filled whilst those most capable of filling them will be under a disqualification

On the question on Mr. King's motion

N— H. ay. Mas. ay— Ct. no. N. J. no. Pa. ay. Md. no. Va. ay N— C. ay. S— C. no. Geo— no. [Ayes — 5; noes — 5]

The amendment being thus lost by the equal division of the States, Mr. Williamson moved to insert the words "created or the emoluments whereof shall have been increased" before the word "during" in the Report of the Committee

Mr. King 2ded. the motion. &

On the question

N— H— ay— Mas— ay— Ct. no. N— J. no. Pa. ay. Md. no. Va. ay. N— C. ay. S. C. no. Geo— divided. [Ayes — 5; noes — 4; divided — 1.]

The last clause rendering a Seat in the Legislature & an office incompatible was agreed to nem: con:

The Report as amended & agreed to is as follows.

"The members of each House shall be ineligible to any Civil office under the authority of the U. States, cerated, or the emoluments whereof shall have been increased during the time for which they shall respectively be elected — And no person holding any office under the U. S. shall be a member of either House during his continuance in office."

Adjourned

The ultimate version of the clause represents a victory for the view of Madison, who had led a number of previous attempts to amend the provision in a like manner. His remarks are therefore important to an overall understanding of the scope of the prohibition and demonstrate that the compromise he sought to effect was designed to pinpoint certain potential major abuses for absolute prohibition while maintaining encouragement for legislative service. Following are excerpts from the June 23 debates:

Mr. M(adison) renewed his motion yesterday made & waved to render the members of the 1st. branch "ineligible during their term of service, & for one year after—to such offices only as should be established, of the emoluments thereof, augmented by the Legislature of the U. States during the time of their being members." He supposed that the unnecessary creation of offices, and increase of salaries, were the evils most experienced, & that if the door was shut agst. them, it might properly be left open for the appointt. of members to other offices as an encouragmt. to the Legislative service.

[2] All page references to the debates are from Farrand, "The Records of the Federal Convention of 1787," 4 vols. (Yale University Press, 1966).

Mr. Alex: Martin seconded the motion.

(Mr. Butler. The amendt. does not go far eno' & wd. be easily evaded)

Mr. Rutlidge, was for preserving the Legislature as pure as possible, by shutting the door against appointments of its own members to offices, which was one source of its corruption.

Mr. Mason. The motion of (my colleague) is but a partial remedy for evil. He appealed to (him) as a witness of the shameful partiality of the Legislature of Virginia to its own members. He enlarged on the abuses & corruption in the British Parliament, connected with the appointment of its members. He cd. not suppose that a sufficient number of Citizens could not be found who would be ready, without the inducement of eligibility to offices, to undertake the Legislative service. Genius & virtue it may be said, ought to be encouraged. Genius, for aught he knew, might, but that virtue should be encouraged by such a species of venality, was an idea, that at least had the merit of being new.

Mr. King remarked that we were refining too much in this business; and that the idea of preventing intrigue and solicitation of offices was chimerical. You say that no member shall himself be eligible to any office. Will this restrain him from availing himself of the same means which would gain appointments for himself, to gain them for his son, his brother, or any other object of his partiality. We were losing therefore the advantages on one side, without avoiding the evils on the other.

Mr. Wilson supported the motion. The proper cure he said for corruption in the Legislature was to take from it the power of appointing to offices. One branch of corruption would indeed remain, that of creating unnecessary offices, or granting unnecessary salaries, and for that the amendment would be a proper remedy. He animadverted on the impropriety of stigmatizing with the name of venality the laudable ambition of rising into the honorable offices of the Government; an ambition most likely to be felt in the early & most incorrupt period of life, & which all wise & free Govts. had deemed it sound policy, to cherish, not to check. The members of the Legislature have perhaps the hardest & least profitable task of any who engage in the service of the state. Ought this merit to be made a disqualification?

Mr. Sherman, observed that the motion did not go far enough. It might be evaded by the creation of a new office, the translation to it of a person from another office, and the appointment of a member of the Legislature to the latter. A new Embassy might be established to a new court & an ambassador taken from another, in order to *create* a vacancy for a favorite member. He admitted that inconveniencies lay on both sides. He hoped there wd. be sufficient inducements to the public service without resorting to the prospect of desireable offices, and on the whole was rather agst. the motion of Mr. Madison.

Mr. Gerry thought there was great weight in the objection of Mr. Sherman. He added at another objection agst. admitting the eligibility of members in any case that it would produce intrigues of ambitious men for displacing proper officers, in order to create vacancies for themselves. In answer to Mr. King he observed that although members, if disqualified themselves might still intrigue & cabal for their sons, brothers &c, yet as their own interest would be dearer to them, than those of their nearest connections, it might be expected they would go greater lengths to promote it.

Mr. Madison had been led to this motion as a middle ground between an eligibility in all cases, and an absolute disqualification. He admitted the probable abuses of an eligibility of the members, to offices, particularly within the gift of the Legislature. He had witnessed the partiality of such bodies to their own members, as had been remarked of the Virginia assembly by (his colleague) (Col. Mason). He appealed however to (him) in turn to vouch another fact not less notorious in Virginia, that the backwardness of the best citizens to engage in the legislative service gave but too great success to unfit characters. The question was not to be viewed on one side only. The advantages & disadvantages on both ought to be fairly compared. The objects to be aimed at were to fill all offices with the fittest—characters, & to draw the wisest & most worthy citizens into the Legislative service. If on one hand, public bodies were partial to their own members; on the other they were as apt to be misled by taking characters on report, or the authority of patrons and dependents. All who had been concerned in the appointment of strangers on these recommendations must be sensible of this truth. Nor wd. the partialities of such Bodies be obviated by disqualifying their own members. Candidates for office would hover round the seat of Govt. or be found among the residents there, and practise all the means of courting the favor of the members. A great proportion of the appointments made by the States were evidently brought about in this way. In the general Govt. the evil must be still greater, the characters of distant states, being much less known (throughout the U. States) than those of the distant parts of the same State. The elections by Congress had generally turned on men living at the seat of (the fedl) Govt' or in its neighbourhood.—As to the next object, the impulse to the Legislative service, was evinced by experience to be in general too feeble with those best qualified for it. This inconveniency wd. also be more felt in the Natl. Govt. than in the State Govts as the sacrifices reqd. from the distant members wd. be much greater, and the pecuniary provisions, probably, more disproportiate. It wd. therefore be impolitic to add fresh objections to the (Legislative) service by an absolute disqualification of its members. The point in question was whether this would be an objection with the most capable citizens. Arguing from experience he concluded that it would. The Legislature of Virga would probably have been without many of its best members, if in that situation, they had been ineligible to Congs. to the Govt. & other honorable offices of the State.

(Mr. Butler thought Characters fit for office wd. never be unknown.)

Col. Mason. If the members of the Legislature are disqualified, still the honors of the State will induce those who aspire to them, to enter that service, as the field in which they can best display & improve their talents, & lay the train for their subsequent advancement.

(Mr. Jenifer remarked that in Maryland, the Senators chosen for five years, cd. hold no other office & that this circumstance gained them the greatest confidence of the people.)"

On the question for agreeing to the motion of Mr. Madison. Massts. divd. Ct. ay. N. Y. no. N. J. ay. Pa. no. Del. no. Md. no. Va. no. N. C. no. S. C. no. Geo. no. [Ayes—2; noes—8; divided—1.]

Mr. Sherman movd. to insert the words "and incapable of holding" after the words "eligible to offices" wch. was agreed to without opposition.

The word "established" & the words "Natl. Govt." were struck out of Resolution 3d;

Mr. Spaight called for a division of the question, in consequence of which it was so put, as that it turned in the first member of it, "on the ineligibility of the members *during the term for which they were elected*"—whereon the States were, Massts. divd. Ct. ay. N. Y. ay. N. J. ay. Pa. no. Del. ay. Md. ay. Va. ay. N. C. ay. S. C. ay. Geo. no.

[Ayes—8; noes—2; divided—1.]

On the 2d. member of the sentence extending ineligibility of members to one year after the term for which they were elected (Col. Mason thought this essential to guard agst—evasions by resignations, and stipulations for office to be fulfilled at the expiration of the legislative term. Mr. Gerry had known such a case. Mr. Hamilton. Evasions cd. not be prevented -:- as by proxies—by friends holding for a year, and them opening the way &c. Mr. Rutlidge admitted the possibility of evasions but was for controuling them as possible.)" Mas. no. Ct. no. N.Y. ay. N. J. no. Pa. divd. Del. ay. (Mard. ay.) Va. (no)" N. C. no. S. C. ay. Geo. no.

[Ayes—4; noes—6; divided—1.]

Mr. Madison. My wish is that the national legislature be as uncorrupt as possible. I believe all public bodies are inclined, from various motives, to support its members; but it is not always done from the base motives of venality. Friendship, and a knowledge of the abilities of those with whom they associate, may produce it. If you bar the door against such attachments, you deprive the government of its greatest strength and support. Can you always rely on the patriotism of the members? If this be the only inducement, you will find a great indifferency in filling your legislative body. If we expect to call forth useful characters, we must hold out allurements; nor can any great inconveniency arise from such inducements. The legislative body must be the road to public honor; and the advantage will be greater to adopt my motion, than any possible inconvenience.

In summary, it may be fairly concluded from the course of the debates that it was the concensus of the framers that some prohibition had to be placed on the eligibility of Members of Congress for executive office in order to guard against the possibility of office seeking and executive influence; and that the compromise ultimately reached was based primarily on a fear that a total disqualification during a term of office and for 1 year thereafter would materially affect the supply of able men available to move to executive positions and also the ability of the Legislature to attract capable persons to run for office in the first place.

It seems apparent that the prohibition finally agreed to was meant to be absolute. Nothing has been discovered in the debates which leads to a contrary conclusion; and the remarks as to its potential for easy evasion through indirect means lends weight to the view that at least the minimum sought to be accomplished by the ultimate compromise was to prevent a direct and blatant grant of legislative or executive favor. Stated differently, the price of the compromise, which was sought to insure the availability of high caliber talent to the executive, was the possibility of indirect evasion. The alternatives were a complete bar on officeholding during a Member's tenure, thereby cutting off a source of talent, or no bar at all, which would leave open the door to the perceived evil. The latter alternative does not appear to have been seriously considered.

Thus, the nature of the compromise effected at the convention—that is, the fact that the prohibition was scaled down from an absolute disqualification during tenure plus 1 year to a disqualification upon the occurrence of certain alternative conditions, and the fact that it was not a compromise vis-a-vis a proposal for no bar at all—the nature of the evil

sought to be remedied, and the clear and certain terms of the provision, point strongly toward the conclusion that the disqualification of a member was meant to be absolute during his term of service upon the happening of either condition. Contemporary commentaries and subsequent legal opinions appear to support this view.

POST-CONVENTION COMMENTARIES

For comments of both Madison and Hamilton in their papers supporting the adoption of the Constitution tend to support both the purpose and scope of article I, section 6, clause 2 as adduced above.

In Federalist Paper No. 55, Madison sought to meet the argument that the proposed House of Representatives had too few Members to be entrusted with the great powers granted it. In rebutting the contention Madison commented on the emoluments clause as follows:

Is the danger apprehended from the other branches of the federal government? But where are the means to be found by the President, or the Senate, or both? Their emoluments of office it is to be presumed, will not, and without a previous corruption of the House of Representatives cannot, more than suffice for very different purposes; their private fortunes, as they must all be American citizens, cannot possibly be sources of danger. The only means, then, which they can possess, will be in the dispensation of appointments. Is it here that suspicion rests her charge? Sometimes we are told that this fund of corruption is to be exhausted by the President in subduing the virtue of the Senate. Now, the fidelity of the other House is to be the victim. The improbability of such a mercenary, and perfidious combination of the several members of government, standing on as different foundations as republican principles will well admit, and at the same time accountable to the society over which they are placed, ought alone to quiet this apprehension. But, fortunately the Constitution has provided a full further safeguard. The members of the Congress are rendered ineligible to any civil offices that may be created, or of which the emoluments may be increased, during the term of their election. No offices therefore can be dealt out to the existing members but such as may become vacant by ordinary casualties; and to suppose that these would be sufficient to purchase the guardians of the people, selected by the people themselves, is to renounce every rule by which events ought to be calculated, and to substitute an indiscriminate and unbounded jealousy, with which all reasoning must be vain. The sincere friends of liberty who give themselves up to the extravagancies of this passion are not aware of the injury they do their own cause. As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form. Were the pictures which have been drawn by the political jealousy of some among us faithful likenesses of the human character, the inference would be that there is not sufficient virtue among men for self-government; and that nothing less than the chains of despotism can restrain them from destroying and devouring one another.

In Federalist No. 76, Hamilton defended the integrity of the Senate in the nomination and confirmation process from speculation that undue influence would be brought to bear on the body by the President. His defense rested, in part, on the disqualification clause:

To this reasoning it has been objected that the President, by the influence of the power of nomination, may secure the compliance of the Senate to his views. The supposition of universal venality in human nature is little less an error in political reasoning than the supposition of universal rectitude. The institution of delegated power implies that there is a portion of virtue and honor among mankind, which may be a reasonable foundation of confidence. And experience justifies the theory. It has been found to exist in the most corrupt periods of the most corrupt governments. The venality of the British House of Commons has been long a topic of accusation against that body in the country to which they belong, as well as in this; and it cannot be doubted that the charge is, to a considerable extent, well founded. But it is as little to be doubted that there is always a large proportion of the body which consists of independent and public-spirited men who have an influential weight in the councils of the nation. Hence it is (the present reign not excepted) that the sense of that body is often seen to control the inclinations of the monarch, both with regard to men and to measures. Though it might therefore be allowable to suppose that the executive might occasionally influence some individuals in the Senate, yet the supposition that he could in general purchase the integrity of the whole body would be forced and improbable. A man disposed to view human nature as it is, without either flattering its virtues or exaggerating its vices, will see sufficient group of confidence in the probity of the Senate to rest satisfied, not only that it will be impracticable to the executive to corrupt or seduce a majority of its Members, but that the necessity of its co-operation in the business of appointments will be a considerable and salutary restraint upon the conduct of that magistrate. Nor is the integrity of the Senate the only reliance. The Constitution has provided some important guards against the danger of executive influence upon the legislative body. It declares that "No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office."

In both of the quoted references the implication is that executive influence in the form of offers of civil office, or an enriched office, would not be effective during the term of individual members.

Similar confirmation of the purpose and scope of the provision is to be found in Joseph's Story's Commentaries on the Constitution of the United States (Da Capo Press Reprint Edition, 1970):

§ 864. The next clause regards the disqualifications of members of congress; and is as follows: "No senator or representative shall, during the time, for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time. And no person, holding any office under the United States, shall be a member of either house of congress during his continuance in office." This clause does not appear to meet with any opposition in the convention, as to the propriety of some provision on the subject, the principal question being, as to the best mode of expressing the disqualifications.[2] It has been deemed by one commentator an admirable provision against venality, though not perhaps sufficiently guarded to prevent evasion.[3] And it has been elaborately vindicated by another with uncommon earnestness.[4] The reasons for excluding persons from offices, who have been concerned in creating them, or increasing their emoluments, are to take away, as far as possible, any improper bias in the vote of the representative, and to secure to the constituents some solemn pledge of his disinterestedness. The actual provision, however, does not go to the extent of the principle; for his appointment is restricted only "during the time, for which he was elected;" thus leaving in full force every influence upon his mind, if the period of his election is short, or the duration of it is approaching its natural termination. It has sometimes been matter of regret, that the disqualification had not been made co-extensive with the supposed mischief; and thus have for ever excluded members from the possession of offices created, or rendered more lucrative by themselves.[1] Perhaps there is quite as much wisdom in leaving the provision, where it now is.

§ 865. It is not easy, by any constitutional or legislative enactments, to shut out all, or even many of the avenues of undue or corrupt influence upon the human mind. The great securities for society—those, on which it must for ever rest in a free government—are responsibility to the people through elections, and personal character, and purity of principle. Where these are wanting, there never can be any solid confidence, or any deep sense of duty. Where these exist, they become a sufficient guaranty against all sinister influences, as well as all gross offences. It has been remarked with equal profoundness and sagacity, that, as there is a degree of depravity in mankind, which requires a certain degree of circumspection and distrust; so there are other qualities in human nature, which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher form, than any other.[1] It might well be deemed harsh to disqualify an individual from any office, clearly required by the exigencies of the country, simply because he had done his duty.[2] And, on the other hand, the disqualification might operate upon many persons, who might find their way into the national councils, as a strong inducement to postpone the creation of necessary offices, lest they should become victims of their high discharge of duty. The chances of receiving an appointment to a new office are not so many, or so enticing, as to bewilder many minds; and if they are, the aberrations from duty are so easily traced, that they rarely, or never escape the public reproaches. And if influence is to be exerted by the executive for improper purposes, it will be quite as easy, and in its operation less seen, and less suspected, to give the stipulated patronage in another form, either of office, or of profitable employment, already existing. And even a general disqualification might be evaded by suffering the like patronage silently to fall into the hands of a confidential friends, or a favourite child or relative. A dishonourable traffic in votes, if it should ever become the engine of party or of power in our country, would never be restrained by the slight network of any constitutional provisions of this sort. It would seek, and it would find its due rewards in the general patronage of the government, or in the possession of the offices conferred by the people, which would bring emolument, as well as influence, and secure power by gratifying favourites. The history of our state governments (to go no farther) will scarcely be thought by any ingenuous mind to afford any proofs, that the absence of such a disqualification has renedered state legislation less pure, or less intelligent; or, that the existence of such a disqualification would have retarded one rash measure, or introduced one salutary scruple into the elements of popular or party strife. History, which teaches us by examples, establishes the truth beyond all reasonable question, that genuine patriotism is too lofty in its honour, and

too enlightened in its object, to need such checks; and that weakness and vice, the turbulence of faction, and the meanness of avarice, are easily bought, notwithstanding all the efforts to fetter, or ensnare them.

At the risk of belaboring the point, it should be emphasized that one of Story's criticisms of the prohibition is that it did not go far enough in simply restricting a Member from appointment to civil office during his term of office. Significantly, this left "in full force every influence upon his mind if the period of his election is short, or the duration of it is approaching its natural termination," thus implying that if evasions were to take place they would have to take effect after a Member's term expired.

FOOTNOTES

[1] Mr. Doddridge's Speech in the case of Houston, in May, 1832; Mr. Burges's Speech, Ibid.

[2] Journ. of Convention, 214, 319, 320, 322, 323.

[3] 1 Tuck. Black. Comm. App. 198, 214, 215, 375.

[4] Rawle on the Const. ch. 19, p. 184, &c.; 1 Wilson's Law Lect. 446 to 449.

[1] Rawle on the Constitution, ch. 19. See 1 Tuck. Black. Comm. App. 375.

[1] The Federalist, No. 55.

[2] 2 Elliot's Debates, 279.

SUBSEQUENT LEGAL OPINIONS AND AUTHORITIES

No Federal court has passed upon scope of the inhibition of article I, section 6, clause 2. The question was raised in a court suit emanating from the appointment of Justice Hugo Black to the Supreme Court. Prior to this appointment, Congress passed legislation improving the financial positions of justices retiring at age 70. At the time Black was a Senator from Alabama. The situation gave rise to the case of *Ex parte Albert Levitt*, 302 U.S. 673 (1937), which the Supreme Court dismissed for lack of standing on the part of the petitioner without passing on the merits.

Two Attorney General opinions considering the issue have found the literal language of the provision to be controlling. The first, 17 Op. Atty. Gen. 365 (1882), involved the attempted appointment of a former Senator to an office created after he had resigned his Senate seat but before his term of office had expired. The facts were as follows: Kirkwood was elected as Senator from Iowa for a term expiring on March 4, 1883. He resigned in March 1881 to become Secretary of the Interior and in that same year resigned as Secretary and returned to private life. In 1882 the office of Tariff Commissioner was created by Congress and Kirkwood was proposed as the nominee. However Kirkwood's eligibility was questioned and at the request of the President, Attorney General Brewster rendered an opinion in which he held that Kirkwood was indeed ineligible for appointment.

It is unnecessary to consider the question of the policy which occasioned this constitutional prohibition. I must be controlled exclusively by the positive terms of the provision of the Constitution. The language is precise and clear, and, in my opinion, disables him from receiving the appointment. The rule is absolute, as expressed in the terms of the Constitution, and behind that I cannot go, but must accept it as it is presented regarding its application in this case. I caused careful search through the opinions of the Attorneys General for a precedent upon this question, but none has been found. No opinion is recorded in which the subject is considered. Neither is there any record of published cases in the reports of the United States that touch upon this point. Among the decisions of the State courts four cases only were found in which a like constitutional prohibition has been considered. They are not directly in point here, and I can obtain no help from them to avoid the conclusion I have before expressed. They maintain in effect the same principle and adopt the same rule of interpretation which I here submit disables Governor Kirkwood from receiving this appointment.

A later opinion by Acting Attorney General Conrad, on facts analogous to that raised in the situation now in question, is in agreement. That opinion, reported in 21 Op. Atty. Gen. 211 (1895), involved Senator Matthew W. Ransom of North Carolina, who was elected to a term beginning March 4, 1889. In 1891, during his term, Congress raised the salary of the Ambassador to Mexico. On February 23, 1895, Ransom was nominated to be the envoy to Mexico and was confirmed the same day. Ransom took the oath of office on March 4, after his senatorial term had expired, and received his commission on March 5. Thereafter, the auditor for the State Department refused to pay his salary because of the apparent conflict with article I, section 6, clause 2.

The Acting Attorney General found that the constitutional prohibition is directed against appointment and held that since the appointment occurred on February 23, during the senatorial term, it was a nullity due to Ransom's ineligibility.[3]

THE APPOINTMENT OF PHILANDER C. KNOX

There exists one precedent involving legislation designed to skirt the inhibiting feature of the emoluments clause. The incident arose in 1909 with the announcement of the intended appointment of Senator Philander C. Knox as Secretary of State. It was thereafter discovered that Knox was constitutionally ineligible, the salary of the Secretary's office having been increased by a law passed while he was a Senator.[4] Knox's term was not due to expire until March 3, 1911. To remedy the situation, legislation was introduced in the Senate (S. 9295) reducing the salary in question to what it had been before the increase. The constitutionality of the action was vigorously debated. A minority report accompanying the bill (House Rep. No. 2155, 69th Cong., 2d sess.) stated:

We do not believe that a provision of the Constitution that is so clear and emphatic should be sought to be annulled or suspended in the manner attempted by the passage of this bill. The emoluments of the Secretary of State were increased by the Fifty-ninth Congress. The occupant of that office has been regularly receiving these emoluments. We believe that the mischief undertaken to be provided against by this provision of the Constitution clearly embraces the act of appointing one of the said United States Senators to the office of the Secretary of State. It might be said, and truly, that this mischief is remote in any event; however this may be, it contained sufficient danger for the framers of the Constitution to provide against it. If the Constitution prohibits it, surely it can not be argued that if this prohibition can be so easily overcome by the device of reducing the salary below what in the judgment of the Congress should be, with the hope which in this case is almost a certainty, of the salary being restored to its present amount, that that would not be clear evasion of the plain provision of the Constitution. The office of the Secretary of State will be probably held for eight years by its next incumbent, and a designing Senator, which the Constitution seeks to provide against, could reasonably anticipate, that although his salary would be temporarily reduced in the closing years of his senatorial term, at the expiration of that term it would, through his influence, be restored to the amount to which it was placed by Congress of which he was a member, and thus he would receive the higher salary from at least two to probably eight years.

The debates on the floor of the House were particularly heated, as the following excerpts demonstrate. Representative Clayton spoke in favor of the bill, arguing the mere recission of the pay increase satisfied the constitutional prohibition. His speech was followed by a series of opposition statements by Members covering a wide variety of legal and practical objections. At the heart of the opposition's contentions was the view that the legislation would effectively amend the Constitution. (43 CONGRESSIONAL RECORD 2390–2404).

Mr. CLAYTON. Mr. Speaker, the bill under consideration, and which has just been read at the Clerk's desk, in and of itself in nowise offends against any provision of the Constitution. No one has said—and, I take it, no one will contend—that the enactment of this particular measure will be in violation of the organic law, but the most that is urged against it is that it is an attempt to avoid an alleged ineligibility which may arise hereafter in a possible case. This bill simply seeks (1) to repeal that part of the act of June 30, 1908, which relates this composition at the rate of $8,000 per annum, which was the former statute covering the subject; (2) to provide that there shall be no emoluments attached to the office of Secretary of State other than those in force on the 1st day of May, 1904; (3) and stipulates that the pending measure, if enacted, shall be in force from and after March 4 next. It seems to me too plain for argument, and therefore a waste of time, to say that there can be no constitutional obstacle to the passage of this bill.

Undoubtedly this is true, unless we look beyond the terms of this measure and consider as inseparably related to it the possibility of the appointment of Senator Knox to the office of Secretary of State. If we were permitted to follow the example of a good lawyer before a court, we would confine ourselves to the case at bar, to the particular question before the tribunal, rather than seek for a moot case, and discuss a question that might arise before some other tribunal in some other case at some future time.

Mr. Speaker, in considering the pending measure I believe we have nothing to do with what may be the question presented to the Senate in the near future upon the happening of a possible contingency. To put it plainer, I do not believe that in considering the measure now before the House we have anything to do with a decision of the question which will be presented to the Senate when that body sits as a part of the appoint-

[3] See also Hill v. The Territory of Washington, 2 Wash. Terr. Repts. 147, where the court invalidated the election of a county treasurer on the ground that at the time of his election he was ineligible (he held a reserve commission in the U.S. Army) under then-existing law to hold office and that an amendment of the law subsequent to the election which lifted the disqualification was ineffective to validate his election.

[4] 34 Stat. 948 (1907).

ing power to consider the nomination of Senator Knox as Secretary of State, which nomination is now probable, with every prospect of being made a certainty on the 4th of next month.

I have no objection to urge against this bill which reduces the salary of the Secretary of State. By its very terms it does not relate to any other matter. If I had the opportunity I would vote to reduce the salary of every other Cabinet officer to $8,000. I do not believe that any man has ever accepted a place in any presidential cabinet on account of any salary inducement. It seems to me that $8,000 per annum is enough salary for such a position. Therefore, because this bill does not violate any provision of the Constitution and does reduce the salary of the Secretary of State, I shall vote for it.

I concede, Mr. Speaker, that many of my associates here, whose opinions I value highly, do not agree with the line of argument that I have pursued; so, out of deference to them and for the sake of further argument, I shall consider as best I can in the brief time allowed me the question of the eligibility of Senator KNOX for the portfolio of Secretary of State in the Cabinet of the incoming President.

The second paragraph of section 8 of Article I of the Constitution of the United States is in the following language:

No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a Member of either House during his continuance in office.

To correctly understand any provision of law it is essential to know that good which it is intended to provide and the evil which it is intended to prevent. The rule is stated by an eminent authority to be as follows:

The mischief intended to be removed or suppressed or the cause or necessity of any kind which induced the enactment of a law are important factors to be considered in its construction. The purpose for which the law was enacted is a matter of prime importance in arriving at a correct interpretation of its terms.

Again Judge Story says.

The reason and spirit of the law, or the causes which led to its enactment, are often the best exponents of the words, and limit their application.

And again he says:

The rules then adopted are, to construe the words according to the subject-matter, in such a case as to produce a reasonable effect, and with reference to the circumstances of the particular transaction. Light may also be obtained in such cases from contemporary facts or expositions; from antecedent mischiefs, from known habits, manners, and institutions; and from other sources almost innumerable, which may justly affect the judgment in drawing a fit conclusion in the particular case. (Story on Const., vol. 1, pp. 305–307.)

These rules apply in the construction of any part of a constitution as well as they do in the construction of a statute. A reference to the debates in the convention which framed our Constitution will reveal the fact that there was a twofold purpose in rendering Senators and Representatives ineligible to offices created, or the emoluments of which were increased during the time for which they were elected. It is worthy of note that when this provision was under discussion in that convention, it was attempted to make the bar against Senators and Representatives perpetual, and that this was defeated. This provision was designed in the first place to protect the people from such Senators and Representatives who might be willing to create offices or increase salaries in order that they might enjoy them; and, in the second place, it was designed to remove Congress as far as possible from the influence which such appointments might give the executive over the legislative branch of the Government. If the object was to prevent Senators and Representatives from increasing the salaries of offices and then becoming the beneficiaries of such increase by executive appointment, it obviously follows that the repeal of the law which increased the salary of the Secretary of State would remove the case of Senator KNOX from the reason of the rule, and I think it manifest that it would also remove his case from the operation of the rule.

There can be no dispute that, by repealing the law which increased the salary and restoring the old salary, Senator KNOX, as Secretary of State, would not be benefited by the law passed while he was a Member of the Senate; and therefore the reason which prompted the framers of the Constitution to adopt that provision rendering Senators and Representatives ineligible to certain offices pointed out in the provision which I have read would no longer be applicable. The maxim that "When the reason ceases the rule itself ceases" is not of universal application, and it must be conceded that no matter what the reason of the rule may be, if the rule itself still applies to a given case, then the rule must be followed. Those who contend that the repeal of the law increasing the salary of the Secretary of State will not render Senator KNOX eligible base their contention on the clause which declares, "or the emoluments whereof shall have been increased during such time." Reading that language in the light of the purpose which it was intended to serve, it seems plain to me that it contemplates a continuing condition, and applies, therefore, in a case only where the officer would enjoy the increased emoluments. In the event of the enactment of this bill and the appointment of Senator KNOX he will not "be appointed to any civil office * * * the emoluments whereof shall have been increased." This bill does not attempt to repeal a fact, as is tritely stated, but it seeks to repeal a condition created by a legislative enactment, and it is not to be denied that if Congress has created it can remove the condition. The power to create carries with it the power to destroy.

I venture the opinion that this provision was not intended to apply to a case where an act was passed by Congress, and afterwards, for any reason, repealed, thus reporting the old status. This view is sustained by the rule of construction, that when a statute has been repealed it is the same as to future consequence as if it had never been enacted, unless in the repealing act there is some saving clause.

It is a well-known doctrine applied in construing penal statutes, that if a statute denouncing a given act as a crime has been repealed there would be no warrant or authority for the prosecution of a person for the offense denounced by that statute, even though the offense was committed before the statute was repealed. The prosecution in such a case could not proceed except under the law existing at the time of the trial.

"The general rule is that when an act of the legislature is repealed without a saving clause it is considered, except as to transactions past and closed, as though it had never existed." (Section 282 (162), Lewis Sutherland, Statutory Construction and cases cited.)

"The repeal or expiration of a statute imposing a penalty or forfeiture will prevent any prosecution, trial, or judgment for any offense committed against it while it was in force, unless the contrary is provided in the same or some other existing statute. * * *

"There can be no legal conviction for an offense unless the act be contrary to law at the time it is committed; nor can there be judgment unless the law is in force at the time of the incitement and judgment."

Section 286 (166), Lewis Sutherland, Statutory Construction and cases cited.

If this be the true rule, then we may say that for a stronger reason, we must conclude, that in testing the right to an office, the law as it exists when the test comes ought to govern.

We speak of this question as a constitutional disqualification, but it must be remembered that the Constitution does not prohibit, in a case like that under consideration, proprio vigore, that there must be some statute enacted before the constitutional disqualification can attach; and it seems to me that, when called upon to decide the question of eligibility vel non, the decision must be made under the Constitution and upon the statutory law existing at the time of the decision. Ineligibility is made up of the constitutional provision and a statutory enactment. If the statute has been repealed before the question of ineligibility arises, there is then no law to which the constitutional provision can be applied.

On account of his high character, eminent ability, and long and successful experience in public life, Senator Knox will doubtless be nominated by the President to the Senate on March 4 next for Secretary of State. There will then be no existing statute increasing the emoluments of that office enacted while he was a Senator, and I doubt not that the Senate will confirm him. That great body is fully capable of interpreting any provision of the Constitution. Perhaps it is not too much to say that the interpretation of this provision of the Constitution in such a case is confided to the Senate as a part of the appointing power. In my judgment that tribunal will not "stick in the bark" and say that there was at one time a statute increasing the emoluments of the Secretary of State, enacted while Mr. Knox was a Senator, but will go deeper and put their decision upon the ground that on the 4th of March next, there is no statuture increasing the emoluments of the office of Secretary of State, enacted during the time for which Senator Knox was elected, and therefore no constitutional disqualification arises.

It is evident, and it is complimentary to that distinguished gentleman, that when he was selected, conceding that he has been selected, by Mr. Taft as the ranking member of his official family, the matter of salary was not thought of by him, and therefore this question as to his eligibility never occurred to him. Had the salary been any inducement to him the question discussed here today would naturally have presented itself for his learned consideration. [Applause.]

Mr. GILLESPIE. Mr. Speaker, as I understand it, in this case we have no reason, no right, to refer to the constitutional convention and what occurred there, because the provisions of the Constitution in question are plain, they are emphatic, they are unequivocal. The salary of the Secretary of State has been increased. The increased salary has been received for two years. The constitutional prohibition is complete. Mr. Speaker, what attitude would we be in here if we were considering the passage of a statute like this?

"Be it enacted, etc., That any Senator or Representative may, during the time for which he was elected, be appointed to any civil office under the authority of the United States the emoluments whereof shall have been increased during the time for which he was elected: *Provided, however,* That such Senator or Representative shall not receive the increased salary, but shall only receive such salary as was fixed by law before the said increase."

What would we be attempting to do? To amend the Constitution of the United States by legislative enactment, and that is the purpose of this bill. Mr. Speaker, I do not know how others feel, but for myself I will forever feel humiliated if this Congress in this way deliberately passes this act to override the

Constitution of the United States. I believe it not only violates the letter of the Constitution, but it violates the spirit of the Constitution. Are we going to say that the United States Senators or Members of the House may engage in these evil machinations and schemes, in these designs which always involve the increase of other salaries, and then pass a bill like this, temporarily reducing the salary, as an avenue of escape? This is not a question of reducing a salary, and everybody here knows it. If the question were upon its merits of reducing the salary of the Secretary of State, I believe that there would not be 10 per cent of the Members of this House who would vote to reduce the salary of the Secretary of States from $12,000 to $8,000. I myself would vote tomorrow to restore this salary to $12,000. No; it is not a question of reducing a salary, and we can not shield ourselves behind that proposition. Any Senator or Member would know, if appointed under such circumstances, that his influence within his party, if it is strong enough to enable him to be appointed Secretary of State, would be strong enough to have this salary restored. It is true the bill says that no future Congress shall restore this salary. This is only another absurdity of this bill. We can not control future Congresses. Absurdities accumulate in this bill. The salary of the Secretary of State is too low now, and that is what nearly all of us believe. You are voting upon this bill upon the other proposition, and not upon the merits of the proposition incorporated in the bill. I do not charge that anything of evil entered into the raising of the Secretary of State's salary. I do not believe that such was the case, but I say all the possible mischief that the Constitution undertakes to protect the country from lives in this act. It is a violation of both the letter and the spirit of this provision of the Constitution. Mr. Speaker, when the temperance people come here for legislation, they are told the Constitution is in their way; when labor demands legislation, its representatives are told the Constitution is in their way. Let us live up to the Constitution. If it applies to one let it apply to all. [Applause.]

Mr. HARDWICK. Mr. Speaker, the gentleman from Alabama [Mr. CLAYTON], who opened the debate and favors the bill, is both ingenious and candid in his presentation of the question.

He is ingenious in beginning his argument by calling attention to the fact that no gentleman can base his opposition to the pending measure upon constitutional objections to the Senate bill itself, because everyone must readily concede that Congress has the undoubted power to either increase or decrease the salary of the Secretary of State. The gentleman is not willing, however, to maintain a disingenuous position, so he candidly concedes that the question that is really behind the measure, and from which the motive for its passage springs, is not economy, but an attempt to so modify existing law as to render it possible for the distinguished Senator from Pennsylvania [Mr. KNOX] to accept the high office of Secretary of State in the Cabinet of our incoming President, for which distinguished honor it is authoritatively stated that he has been selected.

Let me say, before I enter into the argument I wish to make, that I have no wish to annoy or embarrass our incoming President, or his administration, particularly with reference to the selection of a Cabinet.

The rules of propriety and good taste would forbid that such a course should be adopted by any member of the opposing party, save upon the most important grounds and for the gravest reasons. Besides, it happens, in this particular matter, that few Members of this body more freely concede and more sincerely admire the great ability of Senator KNOX as a lawyer and as a statesman than I. I believe that he would make a great Secretary of State, and I regret that constitutional objections, as I understand the question, forbid it.

In 1904 Mr. KNOX was elected by the legislature of Pennsylvania to be United States Senator from Pennsylvania for the term beginning March 4, 1905, and ending March 4, 1911. He accepted the office, and from March 4, 1905, up to the present moment has been engaged in the performance of its duties. By the act of February 26, 1907, during the term for which Mr. KNOX was elected Senator and while he was actually serving as such Congress increased the salary of the Secretary of State from $8,000 to $12,000 per annum.

Paragraph 2, section 6, Article I, of the Constitution of the United States provides:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time, etc."

Now, on February 26, 1907, "during the time for which" Mr. KNOX was "elected" Senator, the "emoluments" of the office of Secretary of State were increased. So it appears, from the plain words of the Constitution itself, that on February 26, 1907, Mr. KNOX became constitutionally ineligible to appointment as Secretary of State, and that such ineligibility, in the very words of the Constitution itself, continued "during the time for which he was elected" Senator, to wit, up to March 4, 1911. It seems to me that the question is so simple that to merely state it in the very words of the Constitution is all that is required to carry conviction. But able lawyers in the House and elsewhere have either intentionally or unintentionally sought to complicate the question and to muddy the waters by an entirely irrelevant and wholly useless discussion of the "meaning" of this paragraph of the Constitution, the evil it sought to remedy, and the motives that actuated its framers.

No gentleman on this floor, no lawyer here or elsewhere, is better acquainted than I am with the well-settled doctrine that in construing organic law, or statutory law, either for that matter, all of these matters ought to be taken into consideration, under some circumstances, so that the law may be properly understood; but, until the discussion over this bill and the question behind it arose, I never heard of a lawyer of respectable ability, anywhere, seriously contending that reference ought to be made to these sources of information, to these rules of construction, unless the language to be construed is of doubtful meaning or uncertain significance. That this doctrine of construction, sound enough and wise enough when applicable, should first be distorted and then invoked in order to create a doubt where none exists and to afford an opportunity to evade by "construction" constitutional language so plain that it speaks for itself, says what it means, and means what it says is equally shocking to my judgment as a lawyer and my common sense as a man. I do not believe that either lawyer or layman can accept such a doctrine.

Under the Constitution of the United States Senator KNOX is now ineligible to hold the office of Secretary of State, and will be until March 4, 1911, and no act of Congress, and no number of acts of Congress, can remove the constitutional bar which attached to him on the 26th day of February, 1907, when the Congress of which he was a Member, during the term for which he was elected, increased the salary of the Secretary of State.

The constitutional provision in question does not mean, as our opponents in this debate would have the House and the country believe, that no Member of Congress shall be appointed to an office the salary of which is higher at the time of such appointment than it was when his congressional service began. If it had meant that, it would have been a very simple matter to have said just that, and in fewer words than were employed in the provision that was adopted.

But the gentlemen who favor this bill insist that if Senator KNOX does not receive as Secretary of State greater compensation than attached to that office when his term as Senator began the "spirit" of the Constitution will have been complied with. Let us examine this argument for just a moment. Suppose Mr. KNOX becomes Secretary of State, and suppose at some time between March 4, 1909, and March 4, 1911, at which latter date the term for which Mr. KNOX was elected Senator expires, Congress should again increase the compensation of the Secretary of State above $8,000; then who can deny that not only the letter of the Constitution would have been disregarded, but its spirit, even as that "spirit" is understood and defined by the friends of the Senate bill?

If the construction which the friends of this bill contend for is sound, and the status of the salary at the very date of appointment is to be alone considered, how easy it would be to reduce this salary from $12,000 to $8,000 on the 3d day of March, 1909, let Senator Knox qualify as Secretary of State on the 4th day of March, 1909, and then on the 5th day of March, after he had been appointed and confirmed as Secretary, restore the salary to $12,000. In the event procedure of that kind were had, what would become both of the letter and the "spirit" of the Constitution? And the fact that such procedure is possible under the "construction" contended for by the advocates of this bill is the plainest demonstration of the unsoundness of their contention and the surest warning against the danger of such tampering with the Constitution.

It is my earnest hope that when the President-elect and the distinguished gentleman whom he has selected to head his Cabinet examine into this question carefully, and with the great legal ability for which both of them are so justly distinguished, that, regardless of any action of Congress on this salary matter, neither of them will be willing to signalize the new administration's advent by so patent, so palpable a violation of the Constitution they have sworn to support. It will be most unfortunate if these gentlemen do not rise not only to the proprieties but to the duty of the occasion.

So far as I am concerned, my course in this matter is easy enough. I believe the Constitution says exactly what it means and means precisely what it says. I am convinced that Mr. Knox will not be eligible to appointment as Secretary of State until March 4, 1911, and that no "enabling act" of Congress can override, repeal, or modify the Constitution so as to make him eligible. I shall not, therefore, lend myself to this scheme to override the Constitution and to disregard its plain, simple, and unambiguous language.

Mr. GAINES of West Virginia. I decline to be interrupted further.

But, Mr. Speaker, constitutional propositions should not be construed in so technical a manner. In 12 Wallace, the Supreme Court of the United States says:

"Nor can it be questioned that when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensable to keep in view the business for which those powers were granted. This is a universal rule of construction—"

Says that court—

"applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained the language of its provisions must be construed with reference to that purpose and so as to subserve it."

Now, can anybody doubt that if we put this office in a position where there will have been no increase of salary, where it can

not by any possible construction be held that there was a hope held out to any Senator in voting for the increase that he might get that increase, if we put it back to where it was, destroying the possibility that any such purpose should have animated him in voting for the increase, have we not complied with this rule of construction and subserved the purposes of the Constitution?

And, says the Supreme Court, there are more urgent reasons for looking to the purpose sought to be accomplished in examining the powers confererred by a constitution than there is in construing a statute, will, or contract. We do not expect to find a constitution minute in details.

In connection with the rule of construction laid down by the Supreme Court of the United States just cited, let us see what the object is of the constitutional provision which we are considering.

The reason for excluding persons from office, says Story, who have been concerned in creating them, or increasing their emoluments, is to take away, as far as possible, any improper motive in the vote of the Representative, and to secure to his constituents some solemn pledge of his disinterestedness.

The object of the Constitution is plain to everybody. I have taken the trouble, however, to cite this great authority for the statement of the purpose of the Constitution.

Now, then, if we take away that increase of salary, will we not have strictly complied with the Constitution? Gentlemen talk as if there was a constitutional ineligibility on the part of the distinguished Senator from Pennsylvania. On the contrary, Mr. Speaker, the only ineligibility is created by statute; and that ineligibility which Congress has by law created Congress can by law remove.

Mr. Speaker, this is not a new question. It has been passed upon twice—once, at least, in the National Government and once in the State of New Jersey. In the case of Senator Lot M. Morrill, of Maine, the very question was involved; and because the statute which had increased the salary of Cabinet officers, and which had been passed during the term for which he had been elected, had also been repealed, Senator Morrill was eligible to appointment in the Cabinet, although the time for which he had been elected Senator had not expired.

The New Jersey case was that of Ex-Governor George T. Werts, who was appointed to the supreme court, although his term as senator had not expired and during that term the salary had once been increased. But because the salary had been again reduced to what it had formerly been, he was deemed to be eligible to the appointment, notwithstanding a provision in the New Jersey constitution similar to the one we are now considering.

Also introduced into the debates was an "Unofficial Opinion of Assistant Attorney General Russell" which supported the validity of the proposed method of lifting the disqualification. The text of the opinion follows:

APPENDIX

UNOFFICIAL OPINION OF ASSISTANT ATTORNEY-GENERAL RUSSELL

FEBRUARY 10, 1909.

The question has been submitted for my unofficial opinion whether a Member of the present Senate of the United States could be appointed, after the 4th of March next, but prior to the expiration of the period for which he was elected, to the office of Secretary of State, the salary of which was increased since his election, provided Congress should in the meantime restore the salary to what it was when he entered the Senate. The question involves the construction of the Constitution of the United States (Art I, sec. 6. par. 2), which reads as follows:

"No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a Member of either House during his continuance in office."

It is a well-recognized principle of construction, frequently applied by the Supreme Court to the laws and the Constitution—as, for example, in the Legal Tender cases, the income-tax decision, and in a case (143 U.S., p. 457) involving the question whether a minister contracting to remove to the United States was prohibited from entry by the contract-labor law—that a thing may be within the law and yet without the letter of the law, and vice versa. In the decision of the first-mentioned case the Supreme Court said (12 Wall., 531):

"Nor can it be questioned that, when investigating the nature and extent of the powers conferred by the Constitution upon Congress, it is indispensible to keep in view the objects for which those powers were granted. This is a universal rule of construction, applied alike to statutes, wills, contracts, and constitutions. If the general purpose of the instrument is ascertained, the language of its provisions must be construed with reference to that purpose and so as to subserve it. In no other way can the intent of the framers of the instrument be discovered. And there are more urgent reasons for looking to the ultimate purpose in examining the powers conferred by a constitution than there are in construing a statute, a will, or a contract. We do not expect to find in a consititution minute details. It is necessarily brief and comprehenive."

In the contract-labor case concerning the minister the Supreme Court used this language:

"It is a case where there was presented a definite evil, in view of which the legislature used general terms with the purpose of reaching all phases of that evil; and thereafter, unexpectedly, it is developed that the general language thus employed is broad enough to reach cases and acts which the whole history and life of the country affirm could not have been intentionally legislated against. It is the duty of the courts, under those circumstances, to say that however broad the language of the statute may be, the act, although within the letter, is not within the intention of the legislature, and therefore can not be within the statute."

Applying this familiar principle to the language of Article I, section 6, should we regard that language as prohibiting the appointment of a Senator to an office the salary of which, during the term for which he was elected, has been increased and afterwards diminished, so that at the time of his proposed appointment it is no greater than when he was elected Senator?

Is the general purpose of the language of section 6 such that to prohibit an appointment under those circumstances comes within that purpose, or, on the other hand, does the suggested appointment fall outside of the purpose and therefore outside of the law?

An examination of commentaries on the Constitution and of the debates in the convention which framed it leaves no doubt that the purpose, and the sole purpose, of paragraph 2, section 6, Article I, was to destroy the expectation a Representative or Senator might have that he would enjoy the newly created office or the newly created emoluments. (See Rawle on the Constitution, 2d ed., p. 189; Story on the Constitution, sec. 667; First Tucker's Blackstone, appendix, p. 375; Supp. to Elliott's Debates on the Constitution, pp. 189, 229, 375–378, 503–506, and 559.)

The reasons why the framers of the Constitution sought to destroy that hope was to prevent the vote of the Representative or Senator from being influenced by it. However that may have been, those in favor of the provision and those opposed to it concurred in understanding, what is manifest on the face of the provision itself, that the object, and sole object, to be accomplished was to destroy that hope.

Now, if in the case supposed here there could be no such hope, that object can not be accomplished by preventing the appointment. And certainly no such hope can exist, because, if the increase is made and continued, the Representative or Senator can not be appointed. If, on the other hand, it is made and then unmade, he can not get, or hope for, anything more than if there had been no such increase.

In my opinion, therefore, the case presented falls outside of the purpose of the law and is not within the law.

CHARLES W. RUSSELL,
Assistant Attorney-General.

The bill passed by a vote of 178 to 123, and the law became effective on March 4, 1909. (35 Stat. 626.)

As the above excerpts indicate, the debates were intense and the ultimate decision was reached by a close partisan vote. Although the Knox appointment stands as an important legislative precedent, it, of course, did not resolve the constitutional question involved. Cf. *Myers* v. *United States*, 272 U.S. 52, 175 (1926), where the legislative decision of the First Congress regarding the removal power of the President was deemed to have constitutional significance.

ANALYSIS AND CONCLUSIONS

The basic argument in support of the constitutional efficacy of remedial legislation designed to remove the disqualification imposed by article I, section 6, clause 2 is that such legislation does not violate the intent and spirit of the constitutional inhibition since the very reason for the principle of the provision has been removed. As succinctly stated by Representative Clayton during the 1909 debates:

If the object was to prevent Senators and Representatives from increasing the salaries of offices and then becoming the beneficiaries of such increase by executive appointment, it obviously follows that the repeal of the law which increased the salary of the Secretary of State would remove the case of Senator Knox from the reason of the rule, and I think it manifest that it would also remove his case from the operation of the rule. (42 CONGRESSIONAL RECORD 2391).

Resolution of the issue, however, would not appear to be so simple. In the search for the meaning or intent of constitutional provisions the common rule of construction is that first resort is made to the words of the provision in question, and where they are clear and unambiguous and not in conflict with other provisions of the document, the search for meaning goes no further. Thus in *Lake County* v. *Rollins*, 130 U.S. 662, 670–671 (1889) the Supreme Court expressed the rule as follows:

The object of construction, applied to a constitution, is to give effect to the intent of its framers, and of the people in adopting it. This intent is to be found in the instrument itself; and when the text of a constitutional provision is not ambiguous, the courts, in giving construction thereto, are not at liberty to search for its meaning beyond the instrument.

To get at the thought or meaning expressed in a statute, a contract or a constitution, the first resort, in all cases, is to the natural signification of the words, in the or-

der of grammatical arrangement in which the framers of the instrument have placed them. If the words convey a definite meaning which involves no absurdity, nor any contradiction of other parts of the instrument, then that meaning, apparent on the face of the instrument, must be accepted, and neither the courts nor the legislature have the right to add to it or take from it. *Newell* v. *People*, 7 N. Y. 9, 97; *Hills* v. *Chicago*, 60 Illinois, 86; *Denn* v. *Reid*, 10 Pet. 524; *Leonard* v. *Wiseman*, 31 Maryland, 201, 204; *People* v. *Potter*, 47 N. Y. 375; Cooley, Const. Lim. 57; Story on Const. § 400; *Beardstown* v. *Virginia*, 76 Illinois, 34. So, also, where a law is expressed in plain and unambiguous terms, whether those terms are general or limited, the legislature should be intended to mean what they have plainly expressed, and consequently no room is left for construction. *United States* v. *Fisher*, 2 Cranch. 358, 399; *Doggett* v. *Florida Railroad*, 99 U. S. 72.

There is even stronger reason for adhering to this rule in the case of a constitution than in that of a statute, since the latter is passed by a deliberative body of small numbers, a large proportion of whose members are more or less conversant with the niceties of construction and discrimination and fuller opportunity exists for attention and revision of such a character, while constitutions, although framed by conventions, are yet created by the votes of the entire body of electors in a State, the most of whom are little disposed, even if they were able, to engage in such refinements. The simplest and most obvious interpretation of a constitution, if in itself sensible, is the most likely to be that meant by the people in its adoption.

Such considerations give weight to that line of remark of which *The People* v. *Purdy*, 2 Hill, 31, 36, affords an example. There, Bronson, J., commenting upon the danger of departing from the import and meaning of the language used to express the intent, and hunting after probable meanings not clearly embraced in that language, says: "In this way . . . the constitution is made to mean one thing by one man and something else by another, until in the end it is in danger of being rendered a mere dead letter, and that, too, where the language is so plain and explicit that it is impossible to make it mean more than one thing, unless we lose sight of the instrument itself and roam at large in the boundless fields of speculation."

Words are the common signs that mankind make use of to declare their intention to one another; and when the words of a man express his meaning plainly, distinctly and perfectly, we have no occasion to have recourse to any other means of interpretation.

The provisions of article 6, section 2, clause 2 admit of no uncertainty. In plain terms they state that ineligibility for appointment to an office attaches to all Members of Congress during the remainder of their terms if a new office is created or if the compensation of an old office is increased during the term in which they are serving. No exception is apparent. Indeed, reference to the last clause of section 2, "and no person holding any office under the United States, shall be a Member of either House during his continuance in office," lends further support to such construction. Taken as a whole, the section reads as a consistent, unqualified prohibition against office holding under strictly specified circumstances. Interpolation of an exception after the words, "or the emoluments shall have been increased," which would in effect read "except in individual cases where Congress deems it necessary to waive the disqualification," plainly renders the emoluments clause meaningless.

The applicability of the above-stated rule of construction would also appear to be particularly pertinent in the instant situation since we are not dealing with the grant of an amorphous power ("to regulate commerce") or the prohibition of a particular type of action ("no bill of attainder or ex post facto law shall be passed.") which requires reference outside the confines of the constitutional instrument for meaning. The reason for the rule of construction is to prevent resort to sources of information which would make doubtful and uncertain, or intrude exceptions, where words are clear and unambiguous and admit of no exception. Avoidance of the rule in such circumstances would appear to nullify the attempt at certainty made by the framers. To repeat Attorney General Brewster's admonition regarding the proper manner of construing this provision:

It is unnecessary to consider the question of the policy which occasioned this constitutional prohibition. I must be controlled exclusively by the positive terms of the provision of the Constitution. The language is precise and clear, and, in my opinion, disables him from receiving the appointment. The rule is aboslute, as expressed in the terms of the Constitution, and behind that I can not go, but must accept it as it is presented regarding its application in this case. 17 Op. Atty. Gen. 365, 366.

Notwithstanding the foregoing, as indicated earlier, reference to the intent of the framers would appear to support the plain language rather than to inject a doubt as to the scope of the prohibition. The initial prohibition proposed at the Convention was absolute in nature. The compromise ultimately effected was based on a desire not to foreclose the availability of able men to hold executive offices or to discourage competent individuals from seeking legislative office. There was full recognition that the compromise meant that the entire extent of the perceived evil—office seeking and executive influence—would not be covered. Specific instances of indirect evasion were mentioned, including the possibility that a Member nearing the end of his term could accept an office and with certainty expect the compensation of that office to be raised in a subsequent session of Congress. See, for example, Farrand, volume 1, page 390; Cf. Story, volume II, page 332. The purpose of the framers appears to have been to inhibit all attempts at direct evasions, with the thought that the inclusion of this perhaps halfway measure would serve as a guiding moral principle and reminder for cases not covered. In the words of Rutledge on this very point—

I admit, in some cases, it may be evaded; but this is no argument against shutting the door as close as possible. Farrand, vol. 1, p. 394.

Returning now to the instant situation, it would seem that, if the emoluments clause does not preclude removal by legislative act of a disqualification previously imposed by it, the provision is easily obviated. During the 1909 Knox debates, it was argued that by decreasing the salary of the Secretary of State to what it had been prior to the beginning of Knox's term, there could be no possible aggrandizement to Knox, thereby removing the reason for the constitutional inhibition. But it is to be noted that the provision does not require an inquiry into the purpose of legislation creating an office or raising the compensation of an old office. The legislation itself triggers the disqualification and this would seem to be the case even if, hypothetically, the original triggering legislation raised the compensation of an old office to a level which was still below that being received by Members of Congress themselves. A disqualification arises under the emoluments clause upon the performance of a legislative act, not as a result of a particular legislative purpose. It would seem doubtful that even the loftiest legislative purpose may serve to remove a disqualification.

An argument may also be raised that the action of the 60th Congress in passing similar remedial legislation on behalf of Senator Knox is a controlling constitutional precedent in the present instance. The Supreme Court's decision in *Powell* v. *McCormack*, 395 U.S. 486 (1969), would appear to negative that contention.

Powell raised the question whether a Congressman could be constitutionally denied his seat on grounds other than his failure to meet the standing requirements of age, citizenship, and residence contained in article I, section 2, of the Constitution, requirements which the House specifically found Powell had met. The Court held that in judging the qualifications of its Members under article I, section 5, Congress is limited to the standing qualifications expressly prescribed by the Constitution in article I, section 2, and that Powell was entitled to a declaratory judgment that he was unlawfully excluded from the 90th Congress. Of significance here is the Court's rejection of respondent's argument that Congress own understanding of its power to judge qualifications, as manifested in many past cases in which it had excluded Members who had otherwise met the constitutionally prescribed qualifications, should be controlling. The Court held that such precedents, even if they had been consistent, were not controlling. They were only relevant insofar as they aided in gaining insight into the framers' intent but impliedly even then their value as precedents is lessened the further removed they are from the Convention of 1787. Moreover, the Court further held—

[A]n unconstitutional action . . . taken before does not render that same action any less unconstitutional at a later date.

The relevant portion of the Court's opinion states (395 U.S. at pp. 546–547):

Had these congressional exclusion precedents been more consistent, their precedential value still would be quite limited. See Note, The Power of a House of Congress to Judge the Qualifications of its Members, 81 Harv. L. Rev. 673, 679 (1968). That an unconstitutional action has been taken before surely does not render that same action any less unconstitutional at a later date. Particularly in view of the Congress' own doubts in those few cases where it did exclude members-elect, we are not inclined to give its precedents controlling weight. The relevancy of prior exclusion cases is limited largely to the insight they afford in correctly ascertaining the draftsmen's intent. Obviously, therefore, the precedential value

of these cases tends to increase in proportion to their proximity to the Convention in 1787. See *Myers* v. *United States*, 272 U.S. 52, 175 (1926). And, what evidence we have of Congress' early understanding confirms our conclusion that the House is without power to exclude any member-elect who meets the Constitution's requirements for membership.

As previously indicated, the 1909 Knox debates were heated and partisan. They were preceded by 122 years in which there had been no substantial precedent other than the two above-cited Attorney General's opinions which appear contrary to the legislative action taken. In light of Powell, therefore, the 1909 precedent may not be deemed controlling.

It is, therefore, concluded that there is substantial doubt that remedial legislation to rescind an increase in the compensation for the office of Attorney General in order to remove the disqualification of the proposed nominee for that office is in accord with the letter and intent of Article I, section 6, clause 2 of the Constitution and that it would serve to lift the disqualification.

Mr. President, I personally like our colleague, Senator SAXBE, and I am very sorry to have to raise a constitutional question concerning this proposed appointment. When Senator SAXBE's nomination was first made public, I did not feel that there was any problem of this nature involved, and I so told him. I vaguely remembered the Knox precedent, to which I have alluded, and it was at first my belief that that precedent had laid to rest any doubts about the constitutional provision here involved. However, upon careful reflection and considerable study, I have come to the conclusion that it is my duty—in accordance with my oath to uphold and defend the Constitution—to at least raise the constitutional question. It is for this reason that I urge the Senate and the Judiciary Committee to evaluate the matter and make a determination as to the constitutionality of the appointment. We have a responsibility as Members of a legislative body to consider constitutional questions when we seriously believe, and have ample reason to believe, that they are present. I think we have even more reason to consider the constitutionality of an appointment to a high Cabinet post of one of our esteemed colleagues. There is nothing personal in my taking this position. I have no intention to delay this legislation, and, as a matter of fact, last week, when this bill was first introduced, I at that time asked unanimous consent, to which an objection was made, that the bill be jointly referred to the Committee on Post Office and Civil Service and the Committee on the Judiciary, so that consideration and study could go forward concurrently within both of those committees.

I do believe, however, that the Senate, as one of the guardians of the people's liberties, will be severely judged by the people if it does not view the appointment of one of its own respected Members with the same objectivity that it would view a nominee who is not one among us.

I may be wrong in my opinion that this appointment is unconstitutional. I try to remember always that I can be mistaken and often am. It is for this reason that I want to know what the opinions are of some of the people in this country, who are constitutional experts—whether they be law professors, constitutional lawyers, or other persons well versed in the Constitution and the historic debates that occurred during the Constitutional Convention.

It may be difficult, with the brief period of time we have in which to report the bill back, and on such short notice, to insure the attendance before the Judiciary Committee of many of these eminent authorities, but I would at least hope that some would appear and that others would submit statements which could be included in the hearings record.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. MANSFIELD. I want to commend the Senator for the course which he has taken on this particular matter. I want to assure the Senate that it is a question of constitutionality which motivates the distinguished assistant majority leader, the Senator from West Virginia (Mr. ROBERT C. BYRD). I think it is far better to settle the question before, rather than to have it come up afterward.

It is my hope that this matter can be settled satisfactorily within the time period to which the Judiciary Committee unanimously agreed, which has the full approval of the distinguished Republican leader, the Senator from Pennsylvania (Mr. HUGH SCOTT).

Only until this matter is disposed of, I understand, will it be possible for the White House to forward to the Senate the nomination of Senator WILLIAM SAXBE to be Attorney General of the United States.

I agree also that, as far as our own membership is concerned, they should not be given preferential or special treatment, but should be considered on the same basis as any other nominee for a position which requires Senate confirmation.

We all know BILL SAXBE. We all like him. We think he is a good Senator. But what this will do is serve to protect Mr. SAXBE rather than to serve as a deterrent to his consideration for the office to which the President of the United States has nominated him.

So I want to say that I support the stand of the distinguished assistant majority leader 100 percent. I think he is doing the right thing. And I think that the Senate, when it thinks about it, will agree unanimously with him, and that as far as the nomination is concerned, it will not hold that up except for a very small period of time. So the Saxbe nomination is not being held as a hostage, but the Senate, I think, is observing the rule of law as it applies to confirmations and nominations. That is as it should be and that is as it will be.

I again commend the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. ROBERT C. BYRD. Mr. President, I thank my very distinguished majority leader.

ORDER OF BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan (Mr. GRIFFIN) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged against the order.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I am informed that the Senator from Michigan (Mr. GRIFFIN) does not want to utilize his time under the order. I, therefore, ask unanimous consent that the order be vacated.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 15 minutes with statements limited therein to 3 minutes.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 10.30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Later in the day this order was modified to provide for the Senate to convene at 9 a.m. tomorrow.)

ORDER FOR RECOGNITION OF SENATORS GRIFFIN AND ROBERT C. BYRD AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished assistant Republican leader, the Senator from Michigan (Mr. GRIFFIN), and I each be recognized for not to exceed 15 minutes

and in that order, and that there then be a period for the transaction of routine morning business for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on the Judiciary, with amendments:

S. 663. A bill to improve judicial machinery by amending title 28, United States Code, with respect to judicial review of decisions of the Interstate Commerce Commission, and for other purposes (Rept. No. 93-500).

By Mr. HRUSKA, from the Committee on the Judiciary, without amendment:

S.J. Res. 126. A joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday in May of each year as "Grandparents Day" (Rept. No. 93-501); and

S.J. Res. 168. A joint resolution to authorize the President to designate the period from February 10, 1974, through February 16, 1974, as "National Nurse Week" (Rept. No. 93-502).

By Mr. CRANSTON, from the Committee on Labor and Public Welfare, with an amendment:

S. 1418. A bill to recognize the 50 years of extraordinary and selfless public service of Herbert Hoover, including his many great humanitarian endeavors, his chairmanship of two Commissions of the Organization of the Executive Branch, and his service as 31st President of the United States, and in commemoration of the 100th anniversary of his birth on August 10, 1974, by providing grants to the Hoover Institution on War, Revolution, and Peace (Rept. No. 93-503).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted.

By Mr. EASTLAND, from the Committee on the Judiciary:

Henry A. Schwarz, of Illinois, to be U.S. attorney for the eastern district of Illinois;

John H. deWinter, of Maine, to be U.S. marshal for the district of Maine;

John L. Bowers, Jr., of Tennessee, to be U.S. attorney for the eastern district of Tennessee;

John J. Twomey, Jr., of Illinois, to be U.S. marshal for the northern district of Illinois;

Leonard F. Chapman, Jr., of Virginia, to be Commissioner of Immigration and Naturalization;

Charles H. Anderson, of Tennessee, to be U.S. attorney for the middle district of Tennessee;

Leigh B. Hanes, Jr., of Virginia, to be U.S. attorney for the western district of Virginia;

R. Jackson B. Smith, Jr., of Georgia, to be U.S. attorney for the southern district of Georgia;

Jack V. Richardson, of Kansas, to be U.S. marshal for the district of Kansas;

Rex Walters, of Idaho, to be U.S. marshal for the district of Idaho;

Rex K. Bumgardner, of West Virginia, to be U.S. marshal for the northern district of West Virginia;

Leon T. Campbell, of Tennessee, to be U.S. marshal for the middle district of Tennessee;

James T. Lunsford, of Alabama, to be U.S. marshal for the middle district of Alabama;

Leon B. Sutton, Jr., of Tennessee, to be U.S. marshal for the eastern district of Tennessee;

George R. Tallent, of Tennessee, to be U.S. marshal for the western district of Tennessee; and

James E. Williams, of South Carolina, to be U.S. marshal for the district of South Carolina.

The above nominations were reported with the recommendation that the nominations be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

Mr. MAGNUSON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard which have previously appeared in the CONGRESSIONAL RECORD and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDENT pro tempore. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. PASTORE:

S. 2696. A bill to amend title 38 of the United States Code to provide pension benefits for widows and children of certain persons whose inservice death occurred not in the line of duty. Referred to the Committee on Veterans' Affairs.

By Mr. ERVIN (for himself, Mr. MATHIAS, Mr. KENNEDY, Mr. MANSFIELD, Mr. BROOKE, Mr. BURDICK, Mr. HRUSKA, Mr. YOUNG, and Mr. PASTORE):

S. 2697. A bill to protect the constitutional rights of the subjects of arrest records and to authorize the Federal Bureau of Investigation to desseminate conviction records to State and local government agencies, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. RIBICOFF:

S. 2698. A bill for the relief of John J. Egan. Referred to the Committeee on the Judiciary.

By Mr. MUSKIE (for himself, Mr. FULBRIGHT, and Mr. METCALF):

S. 2699. A bill to amend section 315 of the Communications Act of 1934, in order to require the furnishing of equal opportunities in the use of a broadcasting station to the national committee of the major opposition political party in certain cases when the President uses such station. Referred to the Committee on Commerce.

By Mr. MONDALE (for himself, Mr. JAVITS, Mr. NELSON, Mr. STAFFORD, Mr. WILLIAMS, Mr. RANDOLPH, Mr. KENNEDY, Mr. CRANSTON, Mr. MONTOYA, Mr. HUGHES, Mr. HATHAWAY, Mr. PELL, Mr. SCHWEIKER, Mr. BROOKE, and Mr. RIBICOFF):

S. 2700. A bill to postpone the the implementation of the Headstart fee schedule. Referred to the Committee on Labor and Public Welfare.

By Mr. PELL:

S. 2701. A bill to require the establishment of safety standards for snowmobiles, and for other purposes. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself, Mr. CANNON, Mr. COTTON, Mr. HOLLINGS, Mr. MCINTYRE, Mr. PASTORE, Mr. PELL, Mr. STEVENSON, and Mr. TUNNEY):

S. 2702. A bill to provide that daylight saving time shall be observed on a year-round basis. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PASTORE:

S. 2696. A bill to amend title 38 of the United States Code to provide pension benefits for widows and children of certain persons whose inservice death occurred not in the line of duty. Referred to the Committee on Veterans' Affairs.

Mr. PASTORE. Mr. President, I send to the desk a bill to amend title 38 of the United States Code to provide pension benefits for widows and children of certain servicemen whose inservice death occurred not in the line of duty.

Recently a Veterans' Administration claim for benefits was called to my attention involving constituents, a widow of a deceased military officer and their five children, who, because of an inequity in the Veterans' Administration law, were refused compensation. The officer, although he had a distinguished military career, did not die in line of duty.

Under the law, if a commissioned officer is killed not in the line of duty, the Veterans' Administration has no discretion whatsoever with respect to granting benefits to his surviving wife and children.

However, in the case of a career enlisted man who should die under the same circumstances—not in the line of duty—his spouse and children would receive benefits, because the deceased enlisted man would be treated as a veteran.

This quirk in the law arises, because an enlisted man reenlists for several tours of duty until he accumulates sufficient time to retire.

However, a commissioned officer is considered to serve constantly from the date of his commission until he either retires or dies on duty or not in the line of duty. In either event, the deceased officer cannot be treated as a veteran under the Veterans' Administration law, whereas an enlisted man who is killed under similar circumstances would be treated as a veteran insofar as survivor's benefits are concerned.

The bill I have introduced would provide that the surviving spouse and family of an officer, who dies not in the line of duty, and who has completed at least 2 years of honorable service, would be treated in identical fashion as the family of a deceased enlisted man and would be entitled to non-service-connected VA benefits.

I think it is only equitable that the widow and surviving children of a commissioned officer be treated the same as the widow and surviving children of an enlisted man. After all, whether an officer or an enlisted man on active duty dies in line of duty or through his own negligence, the ones who really suffer are those that the serviceman leaves behind—his family.

I understand from Veterans' Administration officials that the cost of this legislation will be negligible since very few service families will qualify for benefits under this bill.

I hope that the Veterans' Affairs Committee, under the able leadership of Senator VANCE HARTKE, will act favorably and expeditiously on this legislation, because I know of one family from Rhode

Island in desperate need of the assistance which this bill would provide.

By Mr. ERVIN (for himself, Mr. MATHIAS, Mr. KENNEDY, Mr. MANSFIELD, Mr. BROOKE, Mr. BURDICK, Mr. HRUSKA, Mr. YOUNG, and Mr. PASTORE):

S. 2697. A bill to protect the constitutional rights of the subjects of arrest records and to authorize the Federal Bureau of Investigation to disseminate conviction records to State and local government agencies, and for other purposes. Referred to the Committee on the Judiciary.

(The remarks of Mr. ERVIN on the introduction of the above bill and the ensuing discussion appear later in the RECORD during the debate on the conference report on H.R. 8916, the State-Justice-Commerce and the Judiciary appropriation bill, 1974.)

By Mr. MUSKIE (for himself, Mr. FULBRIGHT, and Mr. METCALF):

S. 2699. A bill to amend section 315 of the Communications Act of 1934, in order to require the furnishing of equal opportunities in the use of a broadcasting station to the national committee of the major opposition political party in certain cases when the President uses such station. Referred to the Committee on Commerce.

PRESIDENTIAL RESPONSE TIME ACT

Mr. MUSKIE. Mr. President, the age of television has produced a potential for the perfection of democracy—the opportunity to present to the public at large, in their homes, the great political issues of the day, and the proposed responses of our political leaders.

In 1970, testifying before the Subcommittee on Communications in favor of a proposal to insure Congress some greater measure of national television exposure, I had occasion to observe that, used to its fullest, television could determine the outcome of every political issue and, in fact, every national issue. But television has not yet been successfully integrated into our political system. There is yet no mechanism to insure adequate access to television while protecting against unequal advantage. And the cost of television advertising has led to perversion and abuse of political campaigns.

The use of television in Presidential politics illustrates some of the most difficult of these problems. Different Presidents use television differently; but regardless of the individual who occupies the White House, or his party, by his access to television he exercises unmatched political power which threatens to create an imbalance between the President's and his opponent's ability to communicate with the electorate. Although there may be dispute about how to remedy this imbalance, a remedy surely must be found.

Today I introduce, as a basis for formulating a possible remedy, the Presidential Response Time Act, to give the opposition party access to television to respond to the President during Presidential and congressional election years. I am pleased that Senators FULBRIGHT and METCALF are cosponsoring this measure.

The tremendous impact a President's use of television can have on the opposition political party, Congress, and even the judiciary has been described in a newly published book entitled "Presidential Television"—Basic Books, New York, 1973—by former FCC Chairman Newton N. Minow, Writer John Bartlow Martin, and Washington Attorney Lee M. Mitchell. This book, produced with the support of the 20th Century Fund, is a welcome analysis of the critical relationship of politics and television.

Each succeeding President, this study reports, has made more effective use of the power the President alone holds to appear simultaneously on all national radio and television networks at prime, large-audience hours whenever and in whatever format he wishes. Today the President, and only the President, has this unique opportunity to present his image and his explanation of his policies and plans to the American voting public. The study suggests that this power of Presidential television can affect the continued ability of the opposition party and the Congress to perform the very important function which our political and constitutional traditions have led the public to expect of them—checking and balancing Presidential discretion.

To counterbalance a President's use of television, the authors of "Presidential Television" suggests that Congress periodically hold special prime-time sessions to debate the most important issues before us and that we allow the broadcast of these sessions by the networks. They further suggest that the major political parties and the networks agree upon the broadcast of periodic "National Debates." And they propose that the opposition party be given a right to respond to Presidential television appearances during important preelection periods. The legislation I introduce today is based on this latter suggestion contained in the book "Presidential Television."

The Presidential Response Time Act establishes a right of response to Presidential appearances for the opposition political party during the 90 days prior to a congressional election and during a period commencing January 1 before a Presidential election—if the opposition's own Presidential candidate, if any, would not already be entitled as a result of the President's appearance to broadcast time under present "equal time" provisions. During these periods, the major opposition party is given a right to "equal opportunities" when the President uses a radio or television station. "Equal opportunities" is defined to provide reasonably equal broadcast time in terms of length and audience potential of the time period. If the President has chosen the format of his appearance, the opposition party may choose its format; if the President's appearance has been carried simultaneously on more than one network, the opposition party response is to be carried simultaneously also. Exceptions to the opposition party response right are provided for Presidential appearances in newscasts or news documentaries and on-the-spot coverage of news events where the President's appearance is incidental. The bill also establishes an exemption from the "equal time" requirement for appearances of a candidate in an opposition party response to a Presidential broadcast.

The cosponsorship of this measure by Senators FULBRIGHT and METCALF is particularly welcome. Senator FULBRIGHT, in 1970, introduced a similar measure, which I cosponsored, which would have required broadcasters to provide network television time to congressional representatives. And Senator METCALF, as chairman of the Joint Committee on Congressional Operations, has displayed a consistent interest in the role of television in the work of Congress. I commend their continued concern with the problems of television and politics.

Mr. President, we must insure that Presidential television does not dangerously imbalance politics and Government. I hope the Presidential Response Time Act will be considered by Congress as a possible remedy to that imbalance.

I ask unanimous consent that the bill, and an article in the Washington Star-News by Messrs. Minow, Martin, and Mitchell, be inserted in the RECORD.

There being no objection, the bill and article were ordered to be printed in the RECORD, as follows:

S. 2699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 315 of the Communications Act of 1934 is amended—

(1) in subsection (a) by striking out "or" at the end of clause (3), by inserting "or" at the end of clause (4), and by inserting after clause (4) the following:

"(5) broadcast time made available pursuant to subsection (b) of this section,";

(2) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively, and by inserting after subsection (a) the following new subsection:

"(b) If the facilities of any broadcasting station are used by the President of the United States within a period of ninety days preceding a general election of members of the House and Senate of the United States or, in a year in which a presidential election is to be held, within a period commencing January 1 of such year and ending on the day of such election, and if subsection (a) of this section is not applicable to such use, then the licensee of such station shall afford equal opportunities to the national committee of the major opposition political party. Appearances by the President on any—

(1) bona fide newscast,

(2) bona fide news documentary (if the appearance is incidental to the presentation of the subject or subjects covered by the news documentary), or

(3) on-the-spot coverage of bona fide news events (if the appearance is incidental to the event), shall not be deemed to be use of broadcasting station with the meaning of this subsection.';

(3) in redesignated subsection (f) by striking out "subsection (c) or (d)" and inserting in lieu thereof "subsection (d) or (e)";

(4) in redesignated subsection (g)(2) by striking out "subsections (c) and (d)" and inserting in lieu thereof "subsections (d) and (e)"; and

(5) in redesignated subsection (g) by inserting at the end thereof the following:

"(3) For the purposes of subsection (b) of this section, 'major opposition political party' shall mean the political party whose nominees for President and Vice-President of the United States received the second greatest number of votes in the last presidential election; 'equal opportunities' shall mean a time period the length and scheduling of which is reasonably equal in audience potential to that used by the President and a choice of program format if the President's use consisted of a format chosen by him, and where the President's use of a broadcasting station occurs simultaneously with his use of other broadcasting stations, 'equal opportunities' shall also include the same simultaneous carriage."

THE OPPOSITION NEEDS A FAIR SHAKE

(By Newton N. Minow, John Barlow Martin and Lee M. Mitchell)

On the evening of July 15, 1971, a spokesman for the so-called western White House at San Clemente, Calif., told the three major television networks that President Nixon had an announcement he wanted to make on nationwide television. The networks quickly cleared time for the announcement, which would interrupt their regular shows at 10:30.

But even after agreeing to the presidential preemption, the networks did not know the subject of the President's address. Network newsmen with the President in California received neither advance copies of his statement nor pre-broadcast briefings.

Promptly at 10:30 p.m. EDT from studios in Burbank, the President's image appeared in 25 million homes across the country. "I have requested this television time tonight," he said, "to announce a major development in our efforts to build a lasting peace in the world." He then told the American people he had accepted an invitation from Premier Chou En-lai to visit mainland China. At the same time, he revealed that his chief foreign policy adviser, Henry Kissinger, had secretly spent three days in China already.

President Nixon's dramatic announcement of a major reversal of U.S. foreign policy took the news media, the American people, and the rest of the world completely by surprise. And its impact was greatly increased because he made it directly and personally to the American people.

One professional observer, calling this use of television a "bombshell approach to major new announcements," wrote that such an approach almost guaranteed that the first wave of news coverage would be extremely heavy and would be limited to straight reporting, thus giving the new policy powerful momentum—and momentum without critical appraisal: "Surprise makes for confusion and, at least initially, confusion does not make for valuable analysis."

Time and again, and in recent years with increasing frequency, presidents have appeared on television to explain their policies, to mobilize support, to go over the heads of the Congress and the political parties, and to speak directly to the people for their cause—and their reelection.

Recognizing the pervasiveness of television, its role as the electorate's main source of political information, and its ability to convey images, candidates for election have embraced the public airwaves with enthusiasm. By a television appearance, a politician may place his views before a potentially enormous audience; by appearing simultaneously on most major television channels, so that alternative viewing choices are sharply limited, he can assure that much of the potential will be realized. If a viewer is not sufficiently resistant to turn his set off, the political message generally gets through. As one analyst noted:

"When asked, they say that they dislike political broadcasts . . . but when there is no alternative, they watch. There is good reason to believe, moreover, that these are people who were not previously reached. . . . Television has activated them. They now have political opinions, and talk to others about them. It can be demonstrated that they have learned something—even when their viewing was due more to lack of alternatives than to choice."

But the power of political television is not limited to individual candidates or to election campaign periods. Sen. Edmund Muskie has even testified that "used to its fullest, television can determine the outcome not only of any political issue, but more importantly of each and every national issue." The success of candidates' use of television has given rise to presidential television—the use of television (and radio) by an already elected president to advance his legislative programs and his political objectives.

Evidence indicates that the televised presidential address can have an important effect on public opinion of national issues. Polls have disclosed, for example, that public support for a Kennedy tax proposal rose by 4 percent after his television address on the subject; that support for President Johnson's position on Vietnam issues rose by 30 percent after one of his television addresses; and that support for President Nixon's Vietnam policies rose by 18 percent after one of his television addresses. Louis Harris reports a definite "correlation between televised presidential speeches and increased public acceptance of the President's positions."

Effectively used, the presidential television address can undermine the ability of the party out of power to mount an effective electoral challenge.

The public and Congress have turned their attention to financial and fairness problems resulting from the use of television by candidates but have paid relatively little official attention to the rampant growth of presidential television. Yet presidential television may damage, or at least drastically restructure, democratic institutions even more than campaign television: Television's impact threatens to tilt the delicate system of checks and balances among our governmental institutions in the direction of the president.

Though a president has a wide choice of radio and television techniques the most direct form of presidential television is the formal address preempting regular television programs to announce an important event or policy decision.

The three networks usually carry the president's message simultaneously, with the result that in cities served only by network-affiliated stations, viewers have no choice of what to watch; in larger cities, viewing choices are diminished. Presidential television addresses usually are carried at the same time by all major radio networks. More and more, the televised presidential address has been delivered during prime time, the 7:00–11:00 P.M. period during which commercial broadcasting attracts the largest audience.

The opposition can never equal the president's ability to make news. When, in the campaign of 1972, George McGovern, Democratic candidate for President, requested television time to explain why he had asked Sen. Eagleton to resign as his vice-presidential candidate, the networks refused on the grounds that his appearance would not be news unless he were to name Eagleton's successor—something he was not then prepared to do. It is hard to believe the networks would not have given President Nixon television time had he decided to drop Vice President Agnew from his ticket and asked for time to explain why. This is not to suggest that the networks are biased against the Democrats. It is merely to suggest the newsworthiness of the President of the United States.

Because of who he is, newsmen and their editors allow the president to speak for himself. The remarks of an opposition spokesman may be summarized in television news reporting or analysis; the president's views usually are given in his own words. If a president asks for time, network executives can hardly decide that what he wishes to say is less important than what Marcus Welby has to say. Moreover, they are hard put to determine what part of his discourse is most important, especially if he insists that it is all important.

A President is further assured of broadcast time because broadcasters are eager to please him. They are after all, licensed by the federal government, by the Federal Communications Commission. And the president appoints the members of the FCC. Broadcasting is privilege, revocable by the FCC. Since television stations are enormously valuable, commonly worth many millions of dollars, broadcast executives admit to being sensitive about incurring the displeasure of the president and his FCC.

Occupants of the White House have not hesitated to capitalize on broadcaster fears of retaliation. Franklin Roosevelt let the industry know that FCC policies could begin at the White House. President Johnson was quick to let broadcasters know in no uncertain terms when they displeased him. Vice President Agnew has charged broadcasters with being unfair to the President, while reminding them that they operate under government licenses. Whether intentional or not, the incumbent exercises power over broadcast decision-making.

The only restriction upon a president's use of television is imposed not by the broadcasters but by the audience. Franklin Roosevelt once observed that "the public psychology . . . cannot, because of human weakness, be attuned for long periods of time to a constant repetition of the highest note in the scale." At some point too much presidential television exposure will bore the public.

If every appearance of the president on television has political significance, if the president can be regarded as campaigning throughout his term, then it is essential that the opposition—whether it be the opposing political party or some other group formed over a particular issue—somehow maintain the ability to compete. It is not only diffuseness, lack of structure, and lack of a preeminent leader or a single line on issues that have limited the opposition party's effectiveness in responding to presidential television. Lack of comparable access to television severely compounds the opposition's difficulty.

It has been suggested that, in combination, the president's political opponents may even have greater exposure than he. President Nixon's press secretary, Ronald Ziegler, believes that the opposition can "collectively—regularly—and with great impact—attack the president's policy . . . The collective weight of their opposition equals or outweighs the TV statements of the President. It balances without question."

The only way an opposition party spokesman can gain access to television time under his own control is to be given it by the networks or to buy it himself. Occasionally, one of the networks has offered time to the opposition to use as it sees fit. But the networks have never directly given the opposition party simultaneous three-network prime time to present its views and images at a time and in a format chosen by the party—the conditions in which the president operates.

From Jan. 20, 1969, through August 1, 1971, President Nixon made 14 television addresses and held 15 televised news conferences, all carried simultaneously and free by all three

networks, while the opposition party as such made three appearances, *none of them broadcast on all networks simultaneously.*

Of course, the opposition party can buy time. But a half-hour of simultaneous prime time on all networks can cost more than $250,000, more than the opposition should reasonably be expected to spend to balance the President's free appearances. In 1972, it was also more than the Democratic party could afford. And even if it were not, the networks are not eager to disrupt program schedules, and they also fear complaints from sponsors whose commercial messages may happen to appear immediately before or after a controversial political program.

Our proposal is this: "Equal broadcast opportunities" should mean free time when the president's time has been free, at an equally desirable time of day and of a duration approximately equal to the length of the President's broadcast. The national committee should control format of the presentation if the president has had control of his format.

In exercising its "right of response," the party's national committee would not be limited to addressing only those issues raised by the president in his appearance. It could for example introduce its leaders or the party candidate or candidates in the coming election, or both.

When a presidential appearance has been carried simultaneously by the networks, the national committee response should also be carried simultaneously by the networks. Otherwise, the television exposure clearly could not be termed "equal."

Under this proposal, if the president delivered a prime-time, three-network broadcast address to propose an international agreement, for example, radio and television stations (and CATV systems) that carried the address would be obligated to provide the national committee of the major opposition party "equal opportunities."

The party response time should be put in the hands of the party's national committee because the committee is responsible for the party's election campaign. If party members are dissatisfied with their national committee's response, they should work to change it. The committee surely would be more responsive to pressures from party members than would the networks.

The purpose of response time in the periods prior to federal elections is to insure equality in the electoral use of television. Each presidential television appearance can help create a favorable image of the president or his party and may change votes. Even when the president is not a candidate for reelection, his appearance can affect the candidacies of other nominees of his party.

But there should be a limit on the period when response opportunities are required; this avoids the danger, on the one hand, of over-politicizing the presidency and, on the other hand, of boring the public. If the response period were unlimited, the president might have difficulty in maintaining a consensus with which to govern; and the public would have no respite from politics. The proposal establishes, at the least, the right of response during all of a presidential year before the election.

The opposition response should be exempt from the equal time law and the fairness and political party doctrines. This is necessary to prevent a continuing "response" to a "response"—an unnecessary and unfair burden on the broadcaster.

Between elections, the national committee of the opposition party, the national committee of the president's party, and the commercial and public television networks should together develop a plan to present live debates—perhaps titled "The National Debates"—between spokesmen for the two major parties with agreed topics and formats quarterly each year (only twice a year in federal election years). All debates should be scheduled during prime time and broadcast simultaneously by all networks. They should be widely advertised and promoted by the broadcasters and the parties. This proposal should be carried out voluntarily by the parties and networks rather than be required by legislation.

The debate format, including minor parties at times, might help overcome the public's lack of interest in political programs.

In addition to providing television access for the opposition party, "The National Debates" would prevent unfairness to the president's party. Ordinarily, any position that the party in power takes is consistent with the president's position. But important differences sometimes arise, as recent history indicates, between the president and a significant faction of his own party.

We also propose adopting reforms to ensure all significant presidential candidates a minimum amount of free, simultaneous television time. The voters' ability to watch and assess candidates for president and vice president is in danger of being limited by the high cost of television. Each presidential candidate and his running mate shall be given campaign "voters' time" without cost to them—broadcast time provided simultaneously by all television and radio stations. The two major party candidates would receive six 30-minute, prime-time program periods in the 35 days preceding a presidential election; candidates of minor parties of sufficient size would receive one or two half-hour periods depending on the party's relative strength. Candidates could use their voters' time only in formats that "promote rational political discussion and substantially involve live appearance by the candidate." The federal government would compensate broadcasters for voters' time at reduced commercial rates.

In combination, these reforms would do much to protect the traditional functions of the loyal opposition in an electronic era. Between elections, the opposition could develop and present through debate its positions on issues.

In each case, the opposition's television time would equal the president's—free, prime-time, and on all networks simultaneously. The proposals would not, and should not, guarantee successful opposition to the president. But they would provide the opposition party with what it requires to continue as a vital institution, a reasonable chance to take its case to today's marketplace of ideas—television.

Mr. FULBRIGHT. Mr. President, I am pleased to join the senior Senator from Maine (Mr. MUSKIE) in sponsoring legislation which would establish a right of response to Presidential appearances on radio and television. Under this bill, the national committee of the opposition party would be given an automatic right of response to Presidential radio-TV appearances during a Presidential election year or within 90 days preceding a congressional election in a non-Presidential year.

This legislation was recommended in the 20th Century Fund's report on "Presidential Television," coauthored by Newton N. Minow, John Bartlow Martin, and Lee M. Mitchell. Senator MUSKIE and I are introducing this legislation in order to draw attention to this significant report and to stimulate discussion on this highly important topic.

This bill would represent one step toward redressing the communications imbalance that has seriously distorted our constitutional and political systems.

Section 315 of the Communications Act of 1934 would be amended to require that every radio or television station or cable television system which carried an appearance of the President within the designated "response" period provide, upon request, equal broadcast opportunities to the national committee of the opposition political party. Those Presidential appearances in documentaries or spot news coverage in which the President's appearance is only incidental, and appearances that already give rise to "equal time" for an opposition candidate would be exempt from this requirement.

The opposition would receive free time if the President's time was free, and should be at an equally desirable time and of similar duration.

As the 20th Century Fund report states:

The purpose of response time in the periods prior to federal elections is to insure equality in the electoral use of television. Each presidential television appearance can help create a favorable image of the president or his party and may change votes. Even when the president is not a candidate for reelection, his appearance can affect the candidacies of other nominees of his party.

This legislation is aimed primarily at assuring fair and balanced access to television during Federal election periods and deals with the political imbalance which results from the President having relatively unfettered access to TV, while the opposition currently has nothing approaching equal access. This bill would reduce the advantage that a President now enjoys in such a situation—an advantage that I believe is inconsistent with our political and constitutional system.

As I stated earlier, this would be one step toward redressing the communications imbalance which has developed in the television era, an imbalance which threatens serious damage to our democratic institutions.

The issue is stated very well in the report on "Presidential Television":

The Constitution established a presidency with limitations upon its powers—the need to stand for reelection every four years, checks than can be exercised by the Congress and the Supreme Court. The evolution of political parties and a strong two-party system provided a rallying point for opponents on an incumbent administration, enhancing the importance of frequent reelection. An intricate set of constitutional balances limiting the powers of each of the three government branches added force to the separation of government functions. These political and constitutional relationships served the country well for many years. Television's impact, however, threatens to tilt the delicately balanced system in the direction of the president.

As Fred Friendly has written, the almost exclusive Presidential access to television "bestows on one politician a weapon denied to all others," and this device "permits the first amendment and the very heart of the Constitution to be breached."

The bill which Senator MUSKIE and I are introducing would help alleviate the political imbalance which results from Presidential television.

However, it would not really alleviate the imbalance among the coequal

branches of Government which has resulted from the domination of television by the executive branch. It may be recalled that in 1970 I introduced legislation which would have required radio and television stations to provide a reasonable amount of public service time to authorized representatives of the Senate and House to comment upon and to explain issues of public importance. The broadcast time would be made available at least four times a year, consistent with the obligation of broadcast licensees to serve the public interest.

Hearings on "Public Service Time for the Legislative Branch" were held by the Communications Subcommittee of the Committee on Commerce under the chairmanship of the Senator from Rhode Island (Mr. PASTORE), although no final action was taken on the proposal.

That proposal was of an institutional, not partisan, nature. Its purpose was to help restore the constitutional balance between the executive and legislative branches and to guarantee the right of the people to hear diverse and opposing views, regardless of party.

I still feel that there is a strong need for such legislation. A variety of different suggestions have been made about presentations, and I am convinced that a suitable arrangement can be developed. One of the possibilities suggested in "Presidential Television," and one of the alternatives I have mentioned, would be the broadcast of special prime-time evening sessions of Congress. The report specifically proposes:

Congress, in consultation with the television networks, should permit television cameras on the floor of the House and Senate for the broadcast of specially scheduled prime-time evening sessions at which the most important matters before it each term are discussed, debated and voted on. The sessions should be scheduled and broadcast at least four times per year and carried simultaneously by all three networks. These broadcasts should be exempt from the "equal time" law and the fairness and political party doctrines.

Mr. President, without specifically endorsing this proposal, I do commend to the Senate and to those interested in resolving this problem, the report on "Presidential Television." I think it deserves our serious consideration.

I understand that the Joint Committee on Congressional Operations, under the leadership of the Senator from Montana (Mr. METCALF) is also looking into this question and I am hopeful that the committee will come up with some positive recommendations.

As the majority leader, Mr. MANSFIELD, said earlier this year:

It is time for Congress to determine who really should decide what is a fair input by a coequal branch of government into the perceptions of the American electorate.

I believe that any sensible interpretation of a notion of fairness requires that the American people have the input of the Congress on an issue of great vital importance especially when that issue was drawn into question by the President in an attack upon the Congress.

With the revolution of communications in this country, the whole notion of the separation of powers has been significantly diminished by the inordinate input the executive branch, through the President and the Cabinet officers, has on television.

I believe this is a matter of immense importance and that action must be taken to insure that the legislative branch does have access to television. There is certainly nothing in the Constitution which says that, of all elected officials, the President alone shall have the right to communicate with the American people. That privilege was a gift of modern technology, coming in an age when chronic war and crisis were already inflating the powers of the Presidency. The Congress has recently taken steps to reassert itself in the area of war powers and I am hopeful that in the future we can move to right the balance in other areas.

The legislation we have introduced today, in conjunction with action to provide congressional access to television on an institutional basis, would help reaffirm the constitutional principle of coequal branches of government and the democratic principle of fair elections, with equal access to the voter.

As I stated in testimony on behalf of my 1970 proposal, communication is power and exclusive access to it is a dangerous, unchecked power.

Mr. President, I ask unanimous consent to have printed in the RECORD articles by Herbert Brucker, from the Boston Globe of November 7, and by John O'Connor, from the New York Times of November 11.

There being no objection, the article were ordered to be printed in the RECORD, as follows:

[From the Boston Globe, Nov. 7, 1973]

THE CHECKS AND BALANCES NO LONGER DO

(By Herbert Brucker)

The Twentieth Century Fund has issued a report saying in effect that television has twisted the Constitution out of shape. The checks and balances among the separate departments, says the report, no longer check and balance. Why? Because television has given Presidents one-way access to the American people, while by comparison Congress and the courts are muzzled.

The reception of this report has been as usual in a world too full of a number of things. Here and there there has been comment. But we may expect that the whole study, despite its significance to every citizen, will be filed and forgotten.

This is what the social scientists call technological lag. It takes a long time, maybe a generation, after a public need becomes glaringly obvious for society to get around to bringing itself up to date.

Other examples stare us in the face. If the political and constitutional turbulence now swirling through the nation has proved anything, it is that we are far behind in updating such fundamental political processes as choosing Vice Presidents, providing for presidential succession, and financing political campaigns. The entire national convulsion we are entering was made possible by television's astronomical escalation of the cost of presidential campaigning.

Then, too, there is another defect in our inherited political system that we have done nothing about but talk. This is the pressing need, under today's conditions, for scrapping the Electoral College and substituting the direct election of Presidents. Only luck has saved us, so far, from the disaster inherent in an electoral deadlock thrown into the House.

Well, one thing at a time. To correct the imbalance caused by TV, the Twentieth Century report suggests among other things:

That prime-time debates be arranged for television, including live debates between spokesmen for the two major parties four times a year.

A right of reply for the opposition national committee, any time a President addresses the nation during the 10 months before a national election.

Government purchase of network time, at half price, for presidential candidates.

Additional free television time for all significant presidential nominees in the 35 days before an election.

TV coverage of both houses of Congress for prime-time evening sessions at which important matters are debated and voted on.

One reason proposals along these lines need to be enacted into law is that broadcasters do not cover government and politics as news to anything like the extent newspapers do. Except for giving presidents prime-time TV coverage on all three networks, plus occasional fragmentary exposure of other political figures on the morning and evening news shows, or on the Sunday interview shows, broadcasters charge politicians for time on the air.

Newspapers, to be sure, also welcome political advertising. But with them it is a minor part of their coverage. Most newspapers simply report in their news columns what candidates do and say. There is no reason why broadcasters—who make millions by having free, exclusive use of a portion of the public air—should not give free time to government and politics just as the papers and news magazines do.

Then again we fail to turn advancing technology to our advantage. In our day-to-day following of the Watergate-induced political crisis it is silly that whenever some crucial event takes place in Judge Sirica's court or some other court, we have to put up with an artist's sketch of what it looks like, while an offstage voice tells us what is going on.

We bar cameras and microphones from our courts, and often from our legislatures, though there is no reason why they cannot be kept within bounds there, just as they are at royal coronations, Kennedy or Churchill funerals, or other public events in which dignity rather than staging an entertainment spectacular is the overriding concern.

Of course the Constitution, which has been adapted to changing times for the better part of two centuries, can be adapted to television. All it takes is that we bestir ourselves—and that we choose leaders who can lead.

[From the New York Times, Nov. 11, 1973]

NO BACK TALK FROM THE PRESS, PLEASE

(By John J. O'Connor)

When "Bill Moyers's Journal" returned recently to the public television schedule with "An Essay on Watergate," the occasion was reassuring on several levels, some perhaps not anticipated fully by Moyers himself. Most strikingly, the essay was excellent, succeeding forcefully as a "personal attempt" to get to the roots of the Watergate morality, to explore the premise that "Watergate is something everybody does, it's politics as usual."

The program offered broad and thoughtful perspective at a time when broadcast journalism generally is preoccupied with simply reporting the incredible cascade of news stories concerning the Nixon Administration over the last several months. The result was an object lesson on the potential role of a truly independent public TV system. And, of course, it is hardly coincidence that when, in pre-Watergate days, various Washington officials were demanding an end to news and public affairs programing on public TV, the name of Bill Moyers was prominent on the enemies list.

Those officials presented ingenious and ingeniously empty arguments. From Clay T.

Whitehead, director of the White House Office of Telecommunications Policy, to Patrick J. Buchanan, special assistant to the President, to Henry Loomis, president of the Corporation for Public Broadcasting, the well-orchestrated lament was for a return to "localism," where in effect most stations couldn't monetarily afford to be a threat to anyone.

The official dictum seemed to be "less is more," neatly wrapped in sanctimonious declarations of impartiality. Any detections of an Administrationwide conspiracy to silence, or at least better to control, portions of the press were dismissed with patronizing condescension.

Then, happening to be a day after the showing of "An Essay on Watergate," Senator Lowell P. Weicker Jr., Republican of Connecticut, made public a series of White House documents obtained by the Senate Watergate committee. The memorandums—involving such familiar names as H. R. Haldeman, Charles W. Colson and Jeb Stuart Magruder—were written over 12 months, beginning in February, 1970. At issue was nothing less than a series of efforts to "tear down the institution" of broadcast journalism.

One of the most revealing, both of the Administration and of broadcasting, was a Sept. 25, 1970, memorandum from Colson to Haldeman. Colson had been pressuring top executives of the three commercial networks to deny requests by the Democratic party for free air time to reply to televised Presidential statements. Colson wrote:

'These meetings had a very salutary effect in letting them know that we are determined to protect the President's position, that we know precisely what is going on from the standpoint of both law and policy, and that we are not going to permit them to get away with anything that interferes with the President's ability to communicate."

With the President as the only person in the nation having unlimited and virtually instant access to television, it is curious to find his aides so worried about an "ability to communicate." But, of course, the thrust of their efforts went much further. It concerned the ability of the President to monopolize communications, to eliminate altogether the possibility of questioning and criticism, whether from political opponents or TV commentators. That would be the ultimate victory in a crusade "to protect the President's position."

In his television essay, Moyers presented an especially apt sports context to define the name of the game, the cause reflecting the old American will to win, with a modern twist: "When the one great scorer comes to write against your name, he marks not that you won or lost, but how you played the game."

"The sports writer Grantland Rice formulated the ethic in 1923. In theory, at least, the name of the game was fair play.

"By the nineteen-sixties, football had a new ethic, articulated by Vince Lombardi of the Green Bay Packers and Washington Redskins: 'Winning isn't everything; it's the only thing.'

"In the situation room of the Committee to Re-elect the President, a windowless, well-guarded command post across from the committee's headquarters, the President's team hung a sign borrowed from Lombardi: 'Winning in politics isn't everything; it's the only thing.'

"The name of the game was victory."

If the consequences weren't so tragic for the nation, the playing of the game, the tactics employed, might be almost laughable for their ineptness and miscalculation. Consider another section of the same Colson memorandum:

"To my surprise CBS did not deny that the news had been slanted against us. [William S.] Paley merely said that every Administration has felt the same way and we have been slower in coming to them to complain than our predecessors. He, however, ordered [Dr. Frank] Stanton in my presence to review the analyses with me and if the news has not been balanced to see that the situation is immediately corrected. Paley [chairman of CBS] is in complete control of CBS—Stanton [former president of CBS] is almost obsequious in Paley's presence."

Since the Nixon Administration continues to complain strongly about TV news commentaries, it can only be concluded that CBS did not find any reason to have the situation "immediately corrected." And it was the "obsequious" Stanton who later stood up to the Administration and Congress in the fracas over 'The Selling of the Pentagon" documentary.

The self-deception is almost laughable, but not quite. As Moyers put it, commenting on the entire Watergate quagmire: "It was close. It almost worked. But not quite. Something basic in our traditions held . . . What is best about this country doesn't need exaggeration. It needs vigilance."

By Mr. MONDALE (for himself, Mr. JAVITS, Mr. NELSON, Mr. STAFFORD, Mr. WILLIAMS, Mr. RANDOLPH, Mr. KENNEDY, Mr. CRANSTON, Mr. MONTOYA, Mr. HUGHES, Mr. HATHAWAY, Mr. PELL, Mr. SCHWEIKER, Mr. BROOKE, and Mr. RIBICOFF):

S. 2700. A bill to postpone the implementation of the Headstart fee schedule. Referred to the Committee on Labor and Public Welfare.

HEADSTART FEE SCHEDULE

Mr. MONDALE. Mr. President, today I am introducing on behalf of myself, Senator JAVITS, Senator NELSON, Senator STAFFORD, Senator WILLIAMS, Senator RANDOLPH, Senator KENNEDY, Senator CRANSTON, Senator MONTOYA, Senator HUGHES, Senator HATHAWAY, Senator PELL, Senator SCHWEIKER, Senator BROOKE, and Senator RIBICOFF, a bill which would postpone implementation of the fee schedule for nonpoor children participating in Headstart until July 1, 1975. This same measure has been introduced in the House of Representatives by Congressmen PERKINS, QUIE, HAWKINS, STEIGER, BRADEMAS, BELL and MEEDS.

Mr. President, the fee schedule in question was originally developed as a compromise to gain administration support for the Comprehensive Child Development Act of 1971, which was vetoed by the President. Authority for the same fee schedule was then added to the Economic Opportunity Amendments of 1972, apparently in the belief that it would encourage participation of nonpoor children in Headstart programs. The Department of Health, Education, and Welfare, in exercising its discretion under this authority, set fees for nonpoor children at or very close to the maximum levels permitted by this legislation, and the fee schedule went into effect earlier this year.

The results have been very disturbing. The reports I receive from my own State of Minnesota and from numerous localities throughout the Nation indicate that this fee schedule is causing serious problems both for many families whose children have participated in Headstart or want to participate, and for the Headstart program itself.

Rather than encouraging the participation of nonpoor children in the Headstart program. this fee schedule appears to be decreasing nonpoor participation.

Rather than raising additional funds which could be used to expand Head Start programs, reports suggest that in some cases it is costing more to implement and administer the fee schedule than the fee schedule produces in additional funds.

In addition, in some localities I am told that the fee schedule is causing previously popular Headstart programs to lose community support: is producing a bitterness between poor and nonpoor participants; and is causing special problems for families with handicapped children at the very moment that increased involvement of handicapped children in Headstart programs is required by law.

Mr. President, for these reasons, I am introducing legislation today which postpones implementation of a Headstart fee schedule until July 1, 1975. This bill will provide the authorizing committees and the Congress as a whole an opportunity to review and reconsider the need for a fee schedule during our work next spring regarding the extension of Headstart and the Economic Opportunity Act.

I am hopeful that we can enact this bill in the very near future so that we can end the confusion and difficulties the fee schedule is now creating for families and Headstart programs across the country.

By Mr. PELL:

S. 2701. A bill to require the establishment of safety standards for snowmobiles, and for other purposes. Referred to the Committee on Commerce.

Mr. PELL. Mr. President, today I am introducing a bill that will provide for improved safety in the manufacture and operation of snowmobiles.

The use of the snowmobile in the northern tier of States has increased rapidly over the last few years. It is now estimated that more than 2½ million machines are in use. The sport has added millions of dollars to the economies of the States in the snow belt.

However, Mr. President, this growth has not been without a great price. In the winter of 1967–68, 54 persons lost their lives in snowmobile accidents. In 1968–69, this number increased to 84. By the winter of 1970–71, the number of deaths had risen to 104, including that of a close family friend. Last year, 1971–72, that figure rose to 164. We do not yet have the figures for 1971–73, but it is estimated that 50,000 persons will be injured seriously enough to require treatment at a medical facility. It appears the numbers of deaths will again increase.

Even though the figures on death and injury are sobering, there are other hidden injuries not reflected here. The noise levels of these machines is so great that many operators are sustaining permanent ear damage.

Further, this raucous invasion has created a serious noise problem for the other users of recreation lands. The hiker, the skier, the fisherman, and hunter who seek out the restful solitude of open spaces now find their recrea-

tional calm destroyed by these noisy and dangerous machines.

The speed and lack of control by many operators jeopardizes the safety of other users of recreation spaces.

These factors of noise, speed, and lack of control have a deleterious effect on other parts of the environment. The machines break off tops of young trees, thus permanently damaging or destroying them. Animals have been chased to the point of exhaustion and death. Some hunters have begun using the machines to invade areas which had provided sanctuary to wildlife. Lakes, once inaccessible, are now being depleted of fish.

The bill I introduce today would remedy some of the larger ills associated with the snowmobile. It would set an upper limit on the noise levels of the machines; it would require the manufacturer to provide more safeguards; and finally, it would restrict the operation of these machines on public lands so that the environment and the rights of other users are protected.

Mr. President, snowmobiles have a capacity to contribute to the work and recreational life of our country. But even the most ardent snowmobilers today recognize the desirability and indeed the necessity of reasonable restraints and regulations to protect snowmobile users, the general public and our environment from unnecessary injury and damage. That is the object of this legislation, and in this regard, I want to commend the International Snowmobile Industry Association and manufacturers for recognizing these concerns and undertaking programs to help achieve these goals.

I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2701

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

DEFINITIONS

SECTION 1. For the purposes of this Act the term—

(1) "snowmobile" means any device that is propelled by a motor and is designed for oversnow travel; and

(2) "Commission" means the Consumer Product Safety Commission established pursuant to section 4 of the Consumer Product Safety Act (15 U.S.C. 2053).

SAFETY STANDARDS

SEC. 2. The Commission shall establish consumer product safety standards for the snowmobiles pursuant to its authority under section 7 of the Consumer Product Safety Act (15 U.S.C. 2056). Such standards shall include requirements that snowmobiles be equipped with—

(1) a forward-facing white headlight sufficient to distinguish objects at a distance of 200 feet, a red taillight which is visible from a distance of 500 feet, and a battery reserve sufficient to operate both the headlight and taillight for a period of one hour without operating the motor;

(2) not less than 250 square inches of reflective material applied to each side of the snowmobile;

(3) a throttle control which automatically returns to idle after release of the operator's hand;

(4) a windshield of transparent material which extends above the head of a seated operator and which is of sufficient strength to withstand impact and deflect objects encountered at cruising speeds; and

(5) a muffler system sufficient to reduce the operating noise level of the snowmobile to 73 dbA at 100 feet using measurement practices recommended by the Society of Automotive Engineers.

RESTRICTIONS ON USE OF SNOWMOBILES ON PUBLIC LANDS

SEC. 3. (a)(1) Any individual who operates or is a passenger in a snowmobile being operated on the public lands of the United States shall wear, whenever the snowmobile is in operation, a helmet, approved by the Secretary of the Interior pursuant to subsection (d), which provides crash protection.

(2) It shall be unlawful for any individual who operates or rides as a passenger in a snowmobile being operated on the public lands of the United States to carry any firearms on his person or on or attached to a snowmobile.

(b) It shall be unlawful for any individual—

(1) to operate any snowmobile at any speed in excess of ten miles per hour while such snowmobile is within a distance of 100 feet of any pedestrian, building, or any hiking or ski trail;

(2) to use any snowmobile to chase or in any other manner disturb wildlife; and

(3) to operate any snowmobile within any area which has been designated a wilderness area, or cultural or historical site.

(c) Nothing in this section shall be construed to limit the authority of the Secretary of the Interior or his delegate to control or otherwise limit the use of snowmobiles on the public lands of the United States whenever, in his judgment, such use would have a deleterious impact upon such lands.

(d) The Secretary of the Interior shall by regulation prescribe standards for crash helmets and shall cause notice of such standards to be made public within six months after the date of enactment of this Act.

PENALTY

SEC. 4. Violations of the provisions of section 3(a) or (b) of this Act is a misdemeanor punishable by imprisonment for not more than 15 days, a fine of not to exceed $100, or both, for each such violation.

EFFECTIVE DATE

SEC. 5. The provisions of section 3(a)(1) shall become effective 30 days after the date on which the Secretary of the Interior promulgates final regulations for crash helmet standards under section 3(d) of this Act. All other provisions of this Act shall become effective on the date of enactment.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 796

At the request of Mr. PELL, the Senator from New Jersey (Mr. WILLIAMS) was added as a cosponsor of S. 796, a bill to improve museum services.

S. 1260

At the request of Mr. PELL, the Senator from Nevada (Mr. BIBLE) and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 1260, a bill to provide that daylight saving time shall be observed on a year-round basis.

S. 2661

At the request of Mr. BURDICK, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 2661, a bill to amend the Land and Water Conservation Fund Act of 1965 so as to authorize the development of indoor recreation facilities in certain areas.

SENATE RESOLUTION 202—SUBMISSION OF A RESOLUTION ESTABLISHING A SENATE SPECIAL COMMITTEE ON ENERGY DEVELOPMENT

(Referred to the Committee on Interior and Insular Affairs.)

Mr. GOLDWATER. Mr. President, I am submitting today a Senate resolution establishing a Special Committee on Energy Development of the U.S. Senate.

On Wednesday, November 7, the President of the United States went on national television to announce certain actions he was taking or advocating to meet our energy crisis. I thought it was a fine address.

The President outlined measures to conserve our existing sources of energy. More important, over the long haul, he called for a "Project Independence" to meet our energy needs in the future without any foreign energy source. The President stated:

We must have organizational structures to meet and administer our energy programs.

To meet this urgent goal, he advocated the creation of the Energy Research and Development Administration. I have no doubt that the Energy Research and Development Administration could be to energy what NASA has been to space.

Mr. President, it is a fact that a spate of bills has been introduced in both the House and Senate to tackle the energy problem. In the Senate, they have been variously referred to the Committees on Aeronautical and Space Sciences, Banking, Housing and Urban Affairs, Commerce, Interior, and Labor and Public Welfare. I hope I have not overlooked any.

What appears to be happening is that good intentions are being caught in a legislative snarl involving committee jurisdiction and perhaps inertia.

In the near future, Americans will face national speed limits. They will face appeals to reduce the consumption of fuel oil. There may even be rationing. Economic dislocations are inevitable.

Under these circumstances, it seems to me that the Senate of the United States must show it is willing to exercise leadership in order to come to grips with the energy crisis. It must make an effort parallel to that of the President.

In 1958, the Senate of the United States faced a similar situation. In the previous year, on October 4, 1957, the Soviet Union had been the first nation to launch an Earth satellite. There were reverberations throughout the free world. Fear, if not outright anguish, was the prevailing order of the day.

At that time numerous bills and resolutions were introduced in the Senate to spur American research and development in space. They were referred to every

committee imaginable. The legislative situation was chaotic, and rigid jurisdictional lines seemed to prevent forward movement.

On February 6, 1958, the Senate passed Resolution 256 creating the Senate Special Committee on Space and Astronautics. Membership of the committee was composed of the chairmen and ranking minority members of the Committees on Appropriations, Foreign Relations, Armed Services, Interstate and Foreign Commerce, Government Operations, and the senior Senators on the Joint Committee on Atomic Energy.

Mr. President, the history surrounding the creation of the Senate Special Committee on Space and Astronautics is to be found on page 12 of Senate Document No. 116 of the 90th Congress, 2d session, entitled "Committee on Aeronautical and Space Sciences, United States Senate—Tenth Anniversary 1958–1968." I shall read a brief excerpt from that document, I quote:

The Senate established the Special Committee on Space and Astronautics by passing Senate Resolution 256 on February 6, 1958, directing it to study and investigate all aspects of space exploration, including "the control, development, and facilities," and report its recommendations to the Senate by June 1, 1958, but not later than January 31, 1959.

The resolution provided for 13 members, seven from the majority party and six from the minority, to be appointed by the Vice President from the Committees on Appropriations, Foreign Relations, Armed Services, Interstate and Foreign Commerce, Government Operations, and the Joint Committee on Atomic Energy. The selection of the membership revealed the fact that the subject of space exploration created some puzzling problems of committee organization and jurisdiction for the Congress. When the comprehensive nature of space activities was revealed in the hearings held by the Senate Preparedness Investigating Subcommittee, it became evident that the subject matter of component parts of a U.S. space program cut across the jurisdiction lines of several standing committees of the Senate. A different combination of the substantive committees could be involved with each piece of space legislation, in addition to the regular processes of the Committees on Appropriations.

The complicated parliamentary situation which might arise in the referral of bills to the committees was recognized and became a factor in the selection of the Senators appointed to the Special Committee on Space and Astronautics. For the most part, the special committee was composed of the chairmen and ranking minority members of the standing committees which had a logical interest in space exploration.

By creating the special committee and having in its membership the chairmen and ranking minority members of the cognizant Senate committees, the Senate, at that time, clearly showed its determination to the world that America would become first in space.

In a similar fashion, I believe the creation of the Senate Special Committee on Energy Development could show the world that we mean to become self-sufficient in energy and ultimately net exporters of energy.

The special committee would have as its primary task to examine all bills that have been introduced in the Senate involving the energy crisis and report back to the Senate within the time limits stated. In this connection, I would like to quote Senator Lyndon B. Johnson as floor manager of the resolution creating the Special Committee on Astronautics and Space Exploration. He stated, and I quote:

I have no hard and firm conclusions as to the policy that should be adopted. But I do know there is an urgent need to lodge specific responsibility somewhere, and that the decision must be faced up to, and should not be postponed.

End of quote.

I, too, have no hard and firm solutions, but I sense today the same urgency he sensed in 1958.

In addition, the special committee would probably want to examine the following questions arising from the energy crisis:

First. Do the existing jurisdictional lines of the standing committees of the Senate require change?

Second. Is there a need for a new standing committee?

Third. Should the President be authorized to create a new Department, Administration, or Agency?

The proposed Senate Special Committee on Energy Development would be composed of the chairmen and ranking minority members of the following committees:

Aeronautical and Space Sciences;
Appropriations;
Banking, Housing and Urban Affairs;
Commerce;
Interior; and
Labor and Public Welfare.

In addition, the senior Democratic Senator and the senior Republican Senator of the Joint Committee on Atomic Energy would be members. If either or both of these Senators were members of the special committee by virtue of qualifying as members of standing committees, the next senior Senator would take his place.

Following the precedent established in 1958, the chairman would be the majority leader. Accordingly, the total membership would be 15 Senators of which 8 would be from the majority and 7 from the minority.

My resolution closely parallels Senate Resolution 256 of the second session of the 85th Congress. The first section was changed to relate to energy rather than space exploration. Also, the reporting dates for the committee obviously had to be altered.

Section 2 was changed to reflect the committees involved with energy, and provides for 15 members rather than 13.

Section 3 is a verbatim copy from the old resolution. So is section 4.

Section 5 is the same except that the amount is $400,000 instead of $50,000. This larger amount reflects inflation. Also, it reflects the likelihood that a number of outside consultants and experts might have to be paid by the committee and the possibility of extensive travel.

I believe that the same kind of brains, guts, and determination that created and brought the Apollo program to a successful conclusion can do the same thing with energy.

I hope that Americans will not collectively wring their hands as fossil fuels grow scarcer. I hope we will not be content to have a second rate economy characterized by rationing and shortages. I hope we will not allow ourselves to slide down the chute to mediocrity.

Following the Apollo precedent, let us set for ourselves the goal to become self-sufficient in energy during the next decade. Let us set for ourselves the goal of becomming exporters of energy in the following decade.

We can achieve these goals. When we do, we Americans will have met the challenge of a fuller and better life for all mankind. Let us get going.

The resolution is as follows:

S. Res. 202

Resolved, That there is hereby established a special committee which is authorized and directed to conduct a thorough and complete study and investigation with respect to all aspects and problems relating to energy development and energy resource utilization, and the concomitant use of resources, personnel, equipment, and facilities of the Government of the United States of America. All bills and resolutions introduced in the Senate and all bills and resolutions from the House of Representatives proposing legislation in the field of energy development and utilization shall be referred, and if necessary rereferred, to the Special Committee. The committee will be known as the Special Committee on Energy Development of the United States Senate. The Special Committee is authorized and directed to report to the Senate by December 1, 1974, or the earliest practical date thereafter, but not later than June 30, 1975, by bill or otherwise, with recommendations upon any matter covered by this resolution.

Sec. 2. (a) The Special Committee shall consist of fifteen members, eight from the majority and seven from the minority Members of the Senate, to be appointed by the Vice President from the Committees on Aeronautical and Space Sciences, Appropriations, Banking, Housing and Urban Affairs, Commerce, Interior, Labor and Public Welfare, and the Joint Committee on Atomic Energy. At its first meeting, to be called by the Vice President, the special committee shall select a chairman.

(b) Any vacancies shall be filled in the same manner as the original appointments.

Sec. 3. For the purposes of this resolution the Special Committee is authorized, as it may deem necessary and appropriate, to (1) make such expenditures from the contingent fund of the Senate; (2) hold such hearings; (3) sit and act at such times and places during the sessions, recesses, and adjournment period of the Senate; (4) require by subpena or otherwise the attendance of such witnesses and production of such correspondence, books, papers, and documents; (5) administer such oaths; (6) take such testimony, either orally or by deposition; (7) employ on a temporary basis such technical, clerical, and other assistants and consultants; and (8) with the prior consent of the executive department or agency concerned and the Committee on Rules and Administration, employ on a reimbursable basis such executive branch personnel as it deems advisable; and further, with the consent of other committees or subcommittees, to work in conjunction with and utilize their staffs, as it shall be deemed necessary and appropriate in the judgment of the chairman of the Special Committee.

Sec. 4. Upon the filing of its final report, the Special Committee shall cease to exist.

Sec. 5. The expenditures authorized by this resolution shall not exceed $400,000, and shall be paid upon vouchers signed by the chairman of the Special Committee.

NATIONAL ENERGY EMERGENCY ACT OF 1973—AMENDMENTS

AMENDMENT NO. 652

(Ordered to be printed and to lie on the table.)

Mr. McINTYRE submitted an amendment intended to be proposed by him to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

AMENDMENT NO. 653

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself and Mr. HATFIELD) submitted an amendment intended to be proposed by them jointly to the bill (S. 2589), supra.

AMENDMENT NO. 654

(Ordered to be printed and to lie on the table.)

NEGOTIATIONS WITH THE GOVERNMENT OF CANADA

Mr. MONDALE. Mr. President, on behalf of myself and the Senator from Missouri (Mr. EAGLETON) I submit for printing an amendment to the National Energy Emergency Act of 1973, S. 2589.

With all the attention recently being given to our supply problems with the Middle East, far too little attention has been paid to our neighbors to the North. In fact, Canada exports more crude oil and refined products to this country than does any other single nation. In the second quarter of 1973, Government figures show that almost 24 percent of our total imports of crude oil and refined oil products came from Canada. This was 2½ times the amount we imported from the Middle East and 50 percent more than we imported from Venezuela.

And, in the area of crude oil alone, we imported almost 33 percent of our total foreign oil in the second quarter of this year from Canada.

Yet, in spite of our reliance on Canada in oil and oil products, we have too often regarded Canada as a steady source of high levels of these vitally needed commodities. We have seemed to assume—until very recently—that Canadian production would inevitably serve American refineries, making Canada our most secure source of foreign oil.

Recent events have indicated that these assumptions may no longer be true. The Mideast oil embargo is but the latest and most dramatic of a series of events which have brought about significant changes in Canadian oil policy, changes which have serious implications for our ability to meet domestic demand during this winter and beyond.

These changes may have profound implications on the energy supply situation in the United States, and in particular on the Middle Western and Eastern States.

And there can be little doubt that Canadian policy is changing.

This past March, the Canadian Government began a system of crude oil export controls and denied applications for increases in exports of Canadian crude oil.

This was the first of a number of actions taken in recent months.

In June, new Canadian controls halted the exports of heating oil and gasoline into the United States, under what was described as a "temporary" policy which could last up to 18 months.

And on September 13, the Canadian Government announced that it would impose immediately a 40 cents per barrel export tax on crude oil, to reflect rising prices on the world oil markets. In late October, that tax was suddenly raised from 40 cents to $1.90 per barrel, thereby adding an additional $2 million per day to the cost of the crude oil we import from Canada.

Early in September the Government announced that it would seek price readjustments before granting export licenses for the month of October.

Most recently, Canada announced that it would reduce shipments of crude oil from a level of slightly over 1.1 million barrels per day in October to 1 million barrels in November. In contrast, last April Canadian exports to the United States reached a peak of almost 1.3 million barrels per day. And, the outlook for months beyond November is cloudy.

In short, in the period since April, Canada has reduced her exports to the United States by 300,000 barrels per day, or about 15 percent of the estimated daily shortage of crude oil we now face in this country.

And with Canada now threatened with a possible cut off of her oil supplies from the Middle East, the Canadian Energy Minister has raised the possibility that Canadian refineries might be required to cut off their exports to the Northeastern United States to maintain a neutral Canadian status.

Perhaps most significantly, however, in early September the Government of Canada also indicated that it was pursuing the construction of a pipeline to run from Ontario to Montreal to carry oil from western Canadian oil fields into eastern Canada. At present, Canada exports over 700,000 barrels per day of oil from western fields into the Middle West and Eastern United States, and imports a significant amount into the eastern part of Canada through pipelines originating in the State of Maine.

If an addition to the present pipelines linking western Canada to Ontario were constructed, and if the supply of crude oil now being exported to the United States were stopped, it would come as a grave blow to the oil-poor regions in the Midwest and East which are now so heavily dependent on this Canadian oil.

The Canadian Government has gone through a difficult period in its own energy affairs, and many of the recent actions which she has taken have been in response to world events beyond her control.

Mr. President, the bill as reported from the Interior Committee does contain a provision granting the President general authority to undertake negotiations.

The amendment I am proposing will strengthen this provision. It directs the President, rather than simply giving him authority, to undertake emergency negotiations with Canada to arrive at an oil policy which will benefit both nations during this period of difficulty by seeking to maximize the trade in oil between the United States and Canada consistent with the national interests of both countries.

In addition, my amendment would require the President to report back to the Congress on an interim basis within 45 days, and on a final basis within 90 days, so that we can all know the progress which has been made in the course of these negotiations.

Within the past 2 months, the White House energy adviser, John Love, has traveled to Canada for informal conversations on energy matters. However, more is needed, and it is needed now. We desperately need high-level emergency negotiations between our two governments to assure that we work together in weathering the present emergency. If we do not, we could witness a continued deterioration in American-Canadian relations over energy, which could deprive us of the single largest source of oil we currently possess.

Mr. President, I believe that emergency negotiations between our Government and the Government of Canada are vitally needed at this time. We must make progress in achieving the type of energy relations with our neighbor to the north which recognizes the need for cooperation in a time of difficulty. And, we must do this now, before a lasting deterioration of American-Canadian energy relations sets in and imperils a major source of our ever-expanding need for petroleum and petroleum products.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD at the conclusion of my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 654

On page 16, between lines 2 and 3, insert the following new subsection (c) and renumber all succeeding subsections accordingly:

"(c)(1) The President is authorized and directed to convene negotiations with the Government of Canada, at the earliest possible date, to explore means to safeguard the national interests of the United States and Canada through agreements covering trade in petroleum and petroleum products between Canada and the United States, so as to encourage the maximum volume of such trade consistent with the interests of both nations.

(2) The President shall report to the Congress, on an interim basis, on the progress of such negotiations as may be undertaken pursuant to this subsection, within 45 days of passage of this Act.

(3) The President shall issue a final report to the Congress on the results of such negotiations as may be undertaken pursuant to this subsection, within 90 days of enactment of this Act. Such report shall include recommendations of such legislation as the President shall deem necessary to further the purposes of this Act."

AMENDMENT NO. 655

(Ordered to be printed and to lie on the table.)

CONTINUATION OF PRICE CONTROLS FOR DURATION OF NATIONAL ENERGY EMERGENCY

Mr. MONDALE. Mr. President, I introduce for printing an amendment to

the National Energy Emergency Act of 1973, S. 2589.

Mr. President, the amendment which I am introducing to the National Energy Emergency Act of 1973 has a very simple purpose—to insure that in the next year, the petroleum industry does not reap windfall profits resulting from our current energy shortage.

Over the past 9 months, profit levels of the major oil companies have skyrocketed, while American consumers have been forced to pay ever higher prices for petroleum products. In the first 9 months of this year, oil industry profits soared by 47 percent from 1972 levels. And in the third quarter alone, profit levels were up 63 percent from 1972 levels.

All of this occurred at a time of severe dislocations for some consumers, and soaring prices for all consumers.

Current phase IV rules for the oil industry basically allow all phases of the industry to pass through increased costs to consumers, but not to pass through any increases in profit margins. For over a month, a running battle was fought by many of us in the Congress with the administration over an initial set of phase IV regulations which penalized the retailer, while allowing the big producers and refiners to pass through all increased costs.

In my opinion, this initial plan was designed to prove that phase IV would not work. The Nixon administration has repeatedly stated that it hopes to do away with economic controls as soon as possible. The Economic Stabilization Act of 1970 will expire at the end of April of 1974, and there is a good likelihood that the Cost of Living Council will not be in existence at that date.

In sum, there is a good possibility that within the next 2 or 3 months—at the very time of severe shortages of energy—all controls will be taken off the petroleum industry. Given this industry's dismal past record of performance, the consequences for consumers could be terrible.

Therefore, the amendment I am introducing states that when the President submits his plan for nationwide emergency energy rationing and conservation, he must also submit a system of price controls for any fuel which he deems it necessary to ration. This price control system would insure that prices for any fuel to be rationed would be stabilized at the levels in existence on the date of initiation of any such rationing plan, and that future price increases would be allowed in amounts no greater than the extent of cost increases actually incurred. In addition, this price control system must include administrative procedures to insure compliance.

These administrative mechanisms might include prolongation of the Cost of Living Council's existence for the oil industry only, or establishment of a new body to take over the functions of the Council and administer a price control system until the energy emergency passes.

Finally, the price control system must also include rules to insure that all segments of the petroleum industry are treated on a fair and equitable basis.

The intent of this amendment is to provide a means for continued price controls over the oil industry through the duration of the nationwide energy emergency period declared by this act. This period of 1 year will be difficult for all Americans. And we should not allow the oil companies to use this period of time in which to further increase their already high profits.

However, if the Nixon administration has its way, there may be no price controls over the oil industry in a very short period of time. This amendment would insure continuation of price controls throughout the next year, thereby providing some measure of stability to soaring petroleum prices.

If all Americans are going to be forced to suffer inconvenience during the next year, certainly the major oil companies who bear much of the responsibility for creating our present difficulties should share in the hardship. The amendment I am introducing today is a first step in this direction.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD at the conclusion of my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 655

On page 17, line 18, strike the period and insert in lieu thereof a semicolon, followed by the word "and".

On page 17, between lines, 18, and 19, (3):

"(3) a system of price controls for any fuel to be rationed which will insure that prices for any such fuel shall be stabilized at the level in existence upon the date of the initiation of any such rationing plan, and that future price increases shall be allowed for the duration of the nationwide energy emergency period declared by this Act in amounts no greater than the cost increases actually incurred. Such a price control system shall include administrative mechanisms to insure compliance, and shall include rules to insure that all segments of any industry for which such a price control system is invoked are treated on a fair and equitable basis, so as to avoid hardship to any sector of any such industry."

AMENDMENT NO. 656

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself, Mr. THURMOND, and Mr. HARRY F. BYRD, JR.) submitted an amendment intended to be proposed by them jointly to the bill (S. 2589), supra.

Mr. HELMS. Mr. President, I submit an amendment to S. 2589, the emergency energy bill, which would authorize the President to include limitations on the busing of school children in implementing the national emergency energy rationing and conservation program, to bring about a 25-percent reduction of energy consumption in that area. This could be accomplished by permitting public school pupils to attend the appropriate school nearest their home. Under such circumstances pupils could either walk, in the time-honored American tradition, or in hardship situations, they would be bused no further than to the nearest school.

From time to time, note has been taken of the serious financial impact which the introduction of busing has had upon U.S. education. But the impact upon our energy supply has gone unnoticed. The implication has been always that energy was available in unlimited supply, and that we could be as extravagant in its use as we have been with the taxpayer's dollar. The courts, in fashioning their orders on pupil assignment, have been as heedless of the energy drain created by busing as of the other burdens which they have imposed upon American society.

As a result, children have been denied the right to walk to school in neighborhoods where thousands of children have walked to school in previous generations. From kindergarten age on up, they are now being conditioned to accept vehicular transportation as the normal and expected mode of getting from one point to another. They are being denied the experience of walking, and the opportunity of forming healthful habits which would persist throughout their lives. They are, on the contrary, forming an unhealthy attitude toward the prudent use of our energy resources in the future. These children are growing up in an age when they will be faced with chronic energy shortages at least over the next few decades. We should be educating them to live in the world of today and tomorrow, not the world of yesterday when we had all the gasoline we wanted. Instead, we are training them to accept the idea that it is normal for healthy individuals to have free transportation to their destinations, even when they could and should walk.

Much of the busing today is completely unneeded therefore, and detrimental to the formation of sound attitudes necessary to life in a democracy. We can no longer afford the luxury of training our children to waste our energy supplies.

Nor are the amounts of energy involved insignificant. Based upon a study of gasoline used for busing in the major metropolitan areas of the State of North Carolina, I would estimate that the use of gasoline for busing schoolchildren has at least tripled in the past 4 years wherever the wide-spread use of busing has been introduced under pressure from HEW guidelines or court orders.

Let me give some examples.

In 1969–70, my hometown, the city of Raleigh, had 25 buses which used 26,145 gallons of gasoline to travel 134,654 miles. In 1972–73, the city of Raleigh had 111 buses which used 197,344 gallons to go 750,670 miles.

Think of that, Mr. President. That is an increase of nearly eight times in only 4 years.

The city of Greensboro, in 1970–71 had 107 buses which used 131,817 gallons of gasoline. In 1972–73, the city of Greensboro had 212 buses which used 288,239 gallons of gasoline. That is more than double the use of gasoline in only 1 year.

The city of Winston-Salem, Forsyth County, school district used 307,168 gallons of gasoline in 1969–70, the last year before widespread busing was intro-

duced. In 1972–73, the school district used 711,065 gallons. Again, that is more than double the usage of gasoline.

The city of Charlotte-Mecklenburg County system used 478,343 gallons of gasoline in 1968–69 to travel 1,908,842 miles. Then in April of 1971, the Supreme Court affirmed a busing plan in the famous case known as Swann versus Charlotte/Mecklenburg County Board of Education. In 1971–72, Charlotte used 865,733 gallons of gasoline to travel 3,914,215 miles. And that is not even the whole story. The Charlotte figures do not reflect the miles traveled or the gas used by the City Coach service which is chartered to bus a substantial number of students.

Only a few weeks ago, I discussed in this body a case in the Charlotte-Mecklenburg school system where a single bus is assigned to transport 1 student to West Charlotte High School. This student must arise at 5:30 in the morning, wait for his bus, be transported a distance of 22 miles to school, and then return a distance of 22 miles at night. He is the only student on the bus. The reason for this is that Federal Judge James B. McMillan ordered that 600 students selected for busing to West Charlottee High be chosen by lottery, and this student drew one of what might be called the lucky numbers. His lucky or unlucky number is costing the North Carolina taxpayer more than $3,700 a year to transport one student to school.

Nor is the cost in fuel or dollars the only cost.

In the long rides, children grow restless and boisterous. Last week a young black student leaned out of a bus window for a better look, and his head was struck off when the bus passed a power pole on the curb. Such accidents could happen anytime, but the more children are on buses, the more likely such incidents will take place. He was the second child to be killed on school buses in Charlotte this year.

Mr. President, we have a critical shortage of fuel which is affecting all phases of American life both public and private. The very bill which I am proposing to amend declares that we are in a situation of national emergency, with regard to the usage of fuel. In an emergency an adjustment must be made to accommodate those services which are most essential and which require the least consumption of fuel.

Indeed, the suggestion has been made by some Governors and mayors that it will be necessary to close down our public schools because of scarce energy supplies. This would certainly be a tragedy, especially in view of the fact that substantial amounts of fuel are now being diverted from essential use in connection with public education and used for the purpose of transporting students beyond the schools nearest to their residences.

In examining the figures on gasoline usage which I quoted above, I do not believe anyone could argue that this amazing jump in volume is essential to the operation of public education. This is not a natural growth, it is an unnatural growth. It is wasteful growth. The examples I have given all come from predominantly urbanized areas. They do not represent rural areas where the distances are naturally long and busing has long been accepted. The only reason why children in urban areas need busing is because they have been assigned to schools beyond their home neighborhoods.

My amendment simply says that in setting our priorities we must realize that it is more important to keep the schools open than it is to divert that fuel to a purpose which is frustrating the availability of public education at this time.

At the time when many of these busing plans were ordered put in effect, the availability of fuel was not a factor in their consideration. The Supreme Court said, given the available facts and circumstances at the time such rulings were being made, that busing was a tool available to the courts in shaping what each court considered an equitable remedy to guarantee the equal protection of the law. I submit that those circumstances have drastically changed since that time.

We have reached a point where the various uses of busing must be ranked on a priority scale. Busing is only needed where the distances are too long for a child to walk. But when these distances are artificially created, then such artifical busing can no longer be considered essential. In short, we do not have the fuel left to transport pupils beyond the nearest possible school. Massive busing is no longer available as a reasonable tool for courts to use in shaping their so-called remedies. It is certainly proper for the President to set up energy conservation guidelines to cut energy consumption by limiting unnecessary busing.

Mr. President, it would be foolish to insist upon using our scarce energy resources for nonessential busing when that waste of energy even threatens the continued operation of the schools themselves. I urge every Senator to support this amendment.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from South Carolina be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have not sought cosponsors for this amendment, but needless to say I will welcome them.

I ask unanimous consent that the amendment, which I now submit, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, the amendment will be printed in the RECORD.

Mr. HELMS' amendment (No. 656) is as follows:

At the appropriate place at the end of section 203(b)(2) in title II, insert the following:

Limitations on the transportation of students enrolled in schools operated by local or state educational agencies, as defined in sections 801(f) and 801(k) of the Elementary and Secondary Education Act of 1965, in order that students may walk to school insofar as possible without public transportation, or be transported through public means of conveyance no further than to the appropriate school nearest their residence.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator from North Carolina yield?

Mr. HELMS. I am delighted to yield to my good friend from Virginia.

Mr. HARRY F. BYRD, JR. I commend the distinguished Senator from North Carolina for offering this amendment today. As I understand the amendment, it would have the effect of reducing gasoline consumption.

Mr. HELMS. That is correct.

Mr. HARRY F. BYRD, JR. It would not affect essential school buses, such as those in rural areas where long distances are involved to get to the nearest school, but the amendment would affect the use of school buses which take a lot of gasoline to haul children to schools far from their own neighborhoods for the purpose of achieving an artificial racial balance in the schools.

Mr. HELMS. The Senator is entirely correct.

Mr. HARRY F. BYRD, JR. And the legislation which the Senate will be considering today and presumably tomorrow, the reason the Senate finds it necessary to consider this legislation is that we are faced with a very grave problem in regard to energy and in regard to gasoline?

Mr. HELMS. Exactly.

Mr. HARRY F. BYRD, JR. The executive branch of the Government is talking about rationing gasoline, so that the average citizen will not be able to get enough gasoline to operate his automobile to go to work; so what the Senator from North Carolina is seeking to do, as I understand it, is eliminate unnecessary public travel, and to eliminate unnecessary busing of schoolchildren for no good purpose at all, but just for the purpose of achieving artificial racial balance in the schools.

I find that the parents in my State greatly object to subjecting their children to this long travel by bus to a school a distance from their home; they want to go to their neighborhood schools. So the amendment offered by the able Senator from North Carolina would achieve, as I visualize it, two objectives: It would save fuel, and it would also do what I think most of the parents want, namely, make it possible for their children to go to the schools nearest their homes, thus protecting the neighborhood school, which I think is a very important concept in American life.

The Alexandria, Va., Committee for Quality Education has just called for a similar change in Alexandria for the same reasons.

I commend the able Senator from North Carolina, and I would be pleased if he would make me a cosponsor of his amendment.

Mr. HELMS. I am delighted to add the Senator's name, Mr. President, if there be no objection, as a cosponsor of the amendment, and I thank the Senator from Virginia for his eloquent comments.

The PRESIDING OFFICER. Without objection, the name of the Senator from Virginia will be added as a cosponsor of the amendment.

Which Senator from South Carolina

did the Senator from North Carolina refer to previously?

Mr. HELMS. Mr. THURMOND.

The PRESIDING OFFICER. Does the Senator from North Carolina wish his amendment to be printed and lie over until tomorrow?

Mr. HELMS. Yes.

Mr. HRUSKA. Mr. President, a point of information.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. For what purpose will the matter be printed and lie over?

The PRESIDING OFFICER. It will be printed and lie on the table.

Mr. HRUSKA. For what purpose?

The PRESIDING OFFICER. It is an amendment to S. 2589.

AMENDMENT NOS. 657 AND 658

(Ordered to be printed, and to lie on the table.)

Mr. HASKELL submitted two amendments, intended to be proposed by him, to Senate bill 2589, supra.

AMENDMENT NO. 659

(Ordered to be printed, and to lie on the table.)

Mr. NUNN (for himself, Mr. MCINTYRE, Mr. JAVITS, and Mr. NELSON) submitted an amendment, intended to be proposed by them, jointly, to Senate bill 2589, supra.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Lincoln C. Almond, of Rhode Island, to be U.S. attorney for the district of Rhode Island for the term of 4 years, reappointment.

Gaylord L. Campbell, of California, to be U.S. marshal for the central district of California for the term of 4 years, reappointment.

Elmer J. Reis, of Ohio, to be U.S. marshal for the southern district of Ohio for the term of 4 years, vice Donald M. Horn, resigned.

James W. Traeger, of Indiana, to be U.S. marshal for the northern district of Indiana for the term of 4 years, reappointment.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Wednesday, November 21, 1973, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ADDITIONAL STATEMENTS

THE PROPOSED RESIGNATION OF PRESIDENT NIXON

Mr. GOLDWATER. Mr. President, in the past few days, we have heard a growing demand on the part of some people and publications for the resignation of President Nixon.

And I suggest that many of these suggestions are coming from people who, while honestly concerned and sincere, obviously have not thought through the consequences of a sudden resignation by the President of the United States.

The Constitution, of course, requires that when there are simultaneous vacancies in the Presidency and the Vice Presidency, the office of President shall pass to the Speaker of the House. At the present time, the Speaker of the House is a member of the opposition party. His elevation to the top post in the land while the members of his party in the House and Senate are delaying the confirmation of Republican Vice President-designate GERALD FORD would create a partisan nightmare of unbelievable proportions. It could completely paralyze the Federal Government in a matter of hours and create such havoc that it might take the Nation years to recover.

Mr. President, recently, Mrs. Clare Boothe Luce, an accomplished writer; former Republican Congresswoman from Connecticut and Ambassador to Italy, has addressed herself to this problem in an exceptionally well-written article which appeared October 25 in the Honolulu Star Bulletin. Her thesis is one which I believe all Members of the Congress should read and consider in the light of what all this could mean to the Nation as a whole. I ask unanimous consent to have Mrs. Luce's article published in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PRESIDENT ALBERT—A DEMOCRATIC COUP D'ETAT?

(By Clare Boothe Luce)

(Mrs. Luce is a playwright, former Republican Congresswoman from Connecticut and Ambassador to Italy, now residing in Honolulu.)

Orchestrated by powerful Democrats, the public outcry for the resignation, or impeachment, of President Nixon is growing louder.

What would happen, if Nixon, like Agnew, were to resign, or be impeached?

As matters stand today, if Nixon were to resign, or be impeached, his entire administration would go out of office with him, and a Democratic President and a Democratic administration would take over the White House and the entire U.S. government.

The Constitution requires that when there are simultaneous vacancies in the Presidency and the Vice-Presidency, the office of President shall pass to the Speaker of the House.

Today, the Speaker of the House is Carl Albert, a 65-year old Democrat from Oklahoma. And today, the Vice-Presidency is still vacant. The Democratic majority in Congress has refused to confirm the President's Vice-President-designate, 60-year old Minority Leader, Gerald Ford. The excuse given by the Democrats is that it is not in "the interests of the people" to confirm Ford until they have subjected him to a lengthy investigation of his worthiness to hold the office.

They are in no hurry to get on with the investigation. None of Ford's colleagues question his worthiness—he has been in the House for 25 years and is well liked and trusted. It is just not in the interests of the Democratic party to confirm a Republican. For if Nixon can be forced to resign, or if he can be impeached before Ford is confirmed, Democrat Albert would become President, and the Democarts could take over the White House, without the bother and expense of trying to win it in 1976, in a national election.

If this maneuver succeeds, it will mark the first political coup d'etat in American history.

As there is a good chance that it will succeed, it is useful to ask, what would happen if Carl Albert became President?

First, President Albert, the new Captain of the Ship of State (in which we are all somewhat sea-sick and frightened passengers) would find himself without a crew.

When a President leaves office, all his appointees depart with him. There is no tenure of office for presidential appointees, as there is for university faculty members. Their resignations are mandatory, where they are not customary.

This is, of course, logical. An elected official receives his office from the people, and exercises his political power during his term in office by their consent. An appointed official receives his authority directly from the President. When the President goes, his authority vanishes. He becomes not just a lame duck, but a dead duck.

If Nixon should resign, or be impeached, not only his personal staff, but the entire Cabinet, and all the members of all departments, boards, commissions, bureaus, and embassies, throughout America and abroad who had been appointed by him, *must also* relinquish their offices.

Consequently, the day after Nixon resigned. President Albert would suddenly find himself faced with the impossible task of governing without a government. He could, of course, reappoint such few Nixon appointees as might be willing to hang on until he got around (as he most certainly would, under party pressure) to firing them. But unless he were willing to staff his administration overnight with hundreds of political hacks, and ambitious mediocrities, it would take him weeks, and perhaps months, to put together a competent Cabinet, and man the government with able administrators.

The quadrennial American national election process gives a presidential aspirant several years, and a presidential candidate at least six months, to sound out and recruit the members of that large team which we call an "administration." By the time a victorious presidential candidate is inaugurated, all the key members of his government have been chosen and are set to move (with their families) to Washington, and go immediately to work on the people's business. But even then, more time must pass before a new President's appointees can get cracking. Most of his key figures must "go up to the Hill" to seek confirmation from the Senate.

We are now living (or so we are told) in an era of "Post-Watergate morality", in which the Congress insists that *all* presidential appointees—especially all Cabinet members, Supreme Court justices, and ambassadors—must be given a thorough going-over in "the public interest." (The confirmations of some of Nixon's key appointees took months.)

In order to provide President Albert overnight with a new Cabinet and a new administration, would the Congress abandon its newfound "Post-Watergate morality," and rubberstamp any and every "deserving Democrat" that Albert could pull out of the political grab-bag?

The answer depends, does it not, on whether the Democratic majority honestly cares about "the public interest", or is a bunch of hypocrites. But if we assume that they are honorable men, who would subject Albert's appointees to the same close scrutiny and candid criticism that they have meted out in the past to President Nixon's appointees, President Albert would be forced to govern for a very long time with a skeleton administration.

The elevation of Albert to the Presidency

would face the American people with another unique situation. He would be the first President in our history who had not received the Presidency, or the Vice-Presidency, from the hands of the people. He would also be the first President whose personality, personal qualifications, programs and policies were completely unknown to the national electorate. President Carl Who, a stranger to the vast majority of the American people.

Albert would also enter the White House without a Vice-President. If he designated one, and if his choice were confirmed by the Congress, the second highest office in the land would also be occupied by a man who had not been elected by the people. Moreover, both these strangers to the nation's voters would be members of a political party that was soundly repudiated by the voters less than a year ago.

As matters stand, the Congress knows that Albert is as likely as Ford to become President. But it is highly doubtful that a Democratic Congress will now order an investigation of *his* worthiness, as they have of Ford's. There are after all, limits to the Democratic pursuit of "Post-Watergate morality." The senators who voted against an investigation of the Bobby Baker scandals in the Democratic Johnson administration (Ervin, Inouye, and Montoya, for example) are not likely to investigate a potential Democratic President. (After all, he would have thousands of jobs, and billions of dollars to spread among the Faithful.)

All that an honest reporter can say about Congressman Carl Albert is that no important leader of his party has ever sought to convince a convention that Albert would make a first-rate presidential candidate. He has the reputation in the Capitol of being an intelligent and honorable man, but an indifferent leader. He has had a heart attack and some highly placed sources on the Hill say that in the past he has had a drinking problem. (This writer notes the above, because the most respected journalists today insist that the public has the right to know the worst, as well as the best, that is being said by highly placed, informed sources, about the nation's leading political figures.)

For the rest, the elevation of Albert to the Presidency by a "constitutional" Democratic *coup d'etat* is a highly dangerous business, not only for the nation, but for the Democratic party. If Albert should prove to be an unsuccessful President—which is more than likely—considering the chaos and confusion that would follow the event, the nation would suffer greatly. But inescapably, by 1976, the blame would fall on the party who had engineered him into the White House.

The Watergate investigation has been a Pandora's box that has already unloosed a multitude of miseries on the people. Few are left who have confidence in the integrity of the White House. Far too many are also losing confidence in the integrity of the Congress. A cynical Democratic *coup d'etat* might give the *coup de grace* to the people's faith in our two-party system and our constitutional democracy.

THE POWER OF CONGRESS TO VEST IN A FEDERAL COURT THE AUTHORITY TO APPOINT A SPECIAL PROSECUTOR OF CRIMES ARISING OUT OF THE WATERGATE AFFAIR

Mr. ERVIN. Mr. President, Assistant Professor of Law Lee C. Bollinger, Jr., of the University of Michigan Law School, has prepared an illuminating memorandum on the power of the Congress to vest in a Federal court the authority to appoint a special prosecutor of crimes arising out of the Watergate affair. Since this question is now confronting the Congress, I ask unanimous consent that a copy of the memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

CAN CONGRESS VEST THE APPOINTMENT OF A SPECIAL PROSECUTOR IN A FEDERAL COURT?

In the wake of President Nixon's decision to order the Attorney General to discharge Mr. Cox as the Watergate Special Prosecutor, many individuals and groups have called for legislation creating a new independent prosecutor who would be immune from presidential removal. Early last week, for example, the deans of 17 law schools signed a petition urging Congress to vest the power to appoint a special prosecutor in a federal court. The deans, along with many others of like mind, asserted that Congress was empowered to enact such a law by virtue of Article II, Section 2, of the Constitution. That Section reads in relevant part:

. . . [The President] shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: *but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Court of Law, or in the Heads of Departments.* (emphasis added)

The purpose of this short memorandum is to discuss whether the language, history and judicial interpretation of Article II, Section 2, support the position that Congress can, if it chooses to do so, vest the power to appoint a special prosecutor in a federal court.

I

Looking first at the language of Article II, Section 2, one is immediately struck by its clarity. Unlike the rather general phrasing found throughout much of the Constitution, this clause speaks with precision, without qualification or caveat. It says in plain terms that the Congress may, "as they think proper," vest the appointment of "inferior Officers" in "the President alone, in the Courts of Law, or in the Heads of Departments." By all appearances the individuals who penned this language intended to leave the delegation of the appointment power of lesser federal officials to the unfettered discretion of the legislative branch. If there be any limitation on this discretion, it must be implied, for it surely is not explicit.

We all recognize, of course, that language is an imperfect medium. What may appear clear on the surface, often becomes murky upon further study. Any inquiry into meaning, therefore, must wherever possible go beyond the literal text to an examination of the circumstances under which the words were written or spoken. In instances like this, that means looking at the available records of the Constitutional debates.

When the relevant debates are examined, one finds nothing to suggest that the framers intended to say anything different than they did. The clause was proposed without discussion by Governor Morris. James Madison raised the only recorded objection. His criticism, however, was not that the clause would vest too much power in Congress, but that it did "not go far enough if it be necessary at all." Documents of the Formation of the Union of the American States, House Doc. No. 398, 69th Cong., 1st Sess., (1927). Madison thought that "Superior officers below Heads of Departments ought in some cases to have the appointment of the lesser offices." Id. Governor Morris responded: "There is no necessity. Blank commissions can be sent." Id. After this brief exchange, the amendment was agreed to on the second vote.

When we next turn to the judicial decisions interpreting the pertinent clause in Article II, Section 2, we again find nothing to make us doubt Congress' authority to empower a federal court to appoint a special prosecutor. On the contrary, the one relevant Supreme Court decision strongly supports such an interpretation of congressional power. See *Ex parte Siebold*, 100 U.S. 371 (1879). At issue in *Siebold* was a congressional statute authorizing the judges of federal Circuit Courts to appoint supervisors of congressional elections and marshalls to assist those supervisors. Writing for the Court, Justice Bradley rejected the argument that "no power can be conferred upon the courts of the United States to appoint officers whose duties are not connected with the judicial department of the government." Id. at 397. Citing Article II, Section 2, the Court held that the "selection of the appointment power, as between the functionaries named, is a matter resting in the discretion of Congress." Id. at 397–98. This result seemed to make eminent good sense to the Court:

"And, looking at the subject in a practical light, it is perhaps better that it should rest there, than that the country should be harassed by the endless controversies to which a more specific direction on this subject might have given rise."

Id. at 398.

The Court in Siebold was also unpersuaded by another line of constitutional argument: that the statute was inconsistent with Article III in that it delegated powers to the courts that were nonjudicial in nature. This is not a case, the Court said, where Congress had sought to impose duties on the judicial branch that were not authorized by the Constitution; on the contrary, here "the duty to appoint inferior officers, when required thereto by law, is a constitutional duty of the courts" by virtue of Article II, Section 2. Id. at 398.

The Siebold decision is not the only precedent on Article II, Section 2, though it certainly is the most authoritative. For example, Congress long ago enacted a provision now contained in 28 U.S.C. § 546, which provides:

"The district court for a district in which the office of United States attorney is vacant, may appoint a United States attorney to serve until the vacancy is filled. The order of appointments by the court shall be filed with the clerk of the court."

This statute was upheld as constitutional in *United States* v. *Solomon*, 216 F. Supp. 835 (S.D.N.Y. 1963). The district court there relied on Article II, Section 2, in rejecting an argument that the provision violated the Doctrine of Separation of Powers.

Similarly, a three judge court relied on Article II, Section 2, in upholding a congressional statute under which judges of the United States District Court for the District of Columbia were authorized to appoint members of the District of Columbia Board of Education. See *Hobson* v. *Hansen*, 265 F. Supp. 902, 911–16 (D.C. 1967).

II

The foregoing review of the relevant legal authorities would seem to indicate that there is strong support for the proposition that Congress could under Article II, Section 2, place the power of appointment of a special prosecutor in the federal courts. Before accepting that conclusion as sound, however, we must consider the one major argument which can be anticipated in rebuttal: that it would be an impermissible usurpation of executive powers for Congress to delegate the appointment of executive officials to the judicial branch. Surely, it

might be argued, the last clause of Article II, Section 2, should not be interpreted to mean that Congress may authorize a federal court to appoint the Under Secretary of State. Such a construction would give rise to a serious breach in the wall of separation of powers. And, if that is so, then a line must be drawn somewhere between "executive inferior officers" and other inferior officers. A special prosecutor, the argument would conclude, falls into the former category; his role would be to see that the laws are enforced, historically an executive function.

While this line of argument cannot be lightly dismissed, it contains several flaws which make it ultimately unpersuasive. First, insofar as the argument suggests that Congress may never vest courts with the power to appoint any official who will perform a nonjudicial, or an "executive," function, it is squarely refuted by the Supreme Court's decision in *Siebold*, as well as by the other lower federal court decisions mentioned previously. Congress itself, moreover, has rejected the suggestion; as we have seen, 28 U.S.C. § 546 provides for the interim appointment of United States attorneys by federal district courts. Second, even if it is conceded that a court could not appoint an inferior officer whose duties would be *exclusively* executive in nature, that concession would not necessarily preclude judicial appointment of a special prosecutor. It has long been recognized that a prosecutor is intimately involved in the judicial, as well as executive, functions of the government. As an officer of the court, subject to the supervisory power of the federal courts, the U.S. attorney performs a dual function within the overall scheme of government. He is, in short, markedly different for these purposes than the Under Secretary of State.

In order to sustain the power of Congress to provide for judicial appointment of a new Watergate special prosecutor, however, one need not go so far as to assert that judicial appointment of all United States attorneys would be proper. For the situation now facing the country is unique and clearly calls for extraordinary solutions. The highest officials in the executive branch are the subjects of criminal investigations. That hard fact means that if the executive branch is to control the investigation of alleged wrongdoing by its own members, the very integrity of the government will be called into question. It would seem entirely unreasonable in this instance, therefore, to give a crabbed interpretation of Congress' constitutional powers, especially when the constitutional language is so explicit and the judicial decisions so favorable to a broad reading of congressional authority.

I therefore conclude that it would be constitutionally permissible for Congress to designate a court of law to appoint a special prosecutor, having limited powers of investigation and prosecution and holding office only for a limited period of time.

LEE C. BOLLINGER, Jr.,
Assistant Professor of Law, University of Michigan Law School.

A NEW DIRECTION FOR INDIAN AFFAIRS

Mr. STEVENS. Mr. President, the nomination of Morris F. Thompson to be Commissioner of Indian Affairs signals a new direction for the relationships of American Indians and Alaskan Natives to our Federal Government.

Morris has been the regional director of the BIA for the Alaska region. His confirmation is overwhelmingly recommended by Alaskan Natives.

Morris Thompson is a close personal friend. He has demonstrated maturity and judgment far in excess of that which one might anticipate from a man of his age—31.

I ask unanimous consent that his statement before the Senate Interior and Insular Affairs Committee and his biographical sketch be included in the RECORD.

There being no objection, the statement and biographical sketch was ordered to be printed in the RECORD, as follows:

STATEMENT OF MORRIS THOMPSON BEFORE THE SENATE INTERIOR AND INSULAR AFFAIRS COMMITTEE'S NOVEMBER 14, 1973, HEARING ON THE PRESIDENT'S NOMINATION OF HIM TO BE COMMISSIONER OF INDIAN AFFAIRS

Mr. Chairman, members of the Committee, it is an honor to appear before you as the President's nominee to become Commissioner of Indian Affairs. I accept this nomination with the full knowledge of the tremendous responsibility entrusted in this position and this Bureau. I accept this responsibility because of the concern for American Indians demonstrated by this Administration, this Congress and the American public. Not only has concern been expressed but much needed action is now being taken that I am confident will lead to real progress in the next several years. I feel that I can contribute to this progress.

The biographical information you have been provided indicates the various positions I have held. What it doesn't provide is my personal philosophy on Indians Affairs. This statement and the exchange we will have in this hearing hopefully will provide you and the Indian people a better understanding of what to expect from the Bureau of Indian Affairs under my direction.

American Indians have a right to expect an effective and efficient Bureau of Indian Affairs. They have a right to expect that the money appropriated by Congress for Indians is spent wisely and that each dollar directly or indirectly benefits Indians at the local and individual level. Indian people have a right to determine what the Indian priorities will be and how they are to be met. In addition, if the Indians desire, and at their own initiative, Indians have a right to direct and administer programs developed for them. The President recognized these rights and therefore established a policy of self-determination for Indians, without the threat of termination of the trust responsibility. I believe in this policy, and as Commissioner will insure that meaningful Indian involvement is an integral part of all Bureau operations.

The right of Indians to expect an efficient and responsive Bureau is very important. It is unfortunate however that in recent months concern with reorganization and realignment appears to have been elevated to a high mission status. Even more unfortunate is that this high concern for organizational changes has somewhat diverted valuable resources and attention from what should be the Bureau's top priorities.

Under my leadership, the Bureau's top priorities will be meeting our trust responsibilities, the delivery of meaningful services, and the achievement of greater Indian self-determination. I hope to do this by providing strong leadership and applying sound management practices to the Bureau's operations.

Within the Department of the Interior, the Secretary establishes all major policies, including those involving Indian affairs. Secretary Morton has given me assurance that I will work closely with him in developing policies on Indian Affairs. He has also assured me that I will have the freedom to select my key staff. These assurances are essential to any new Commissioner. One distinct advantage today however is the fact that the Commissioner will report directly to the Secretary. The ability to select a key staff is also a distinct advantage. The Bureau has several key vacancies both at the Central Office and field levels which is an unusual opportunity to develop a well balanced staff. In my selection of key staff I will be seeking not only technical competence and proven ability but more importantly, I will be looking for people with a deep personal commitment and understanding of Indian problems. Hopefully, this process can be accomplished in a timely manner.

Although we have a tremendous responsibility, I recognize that the Bureau of Indian Affairs is not the total answer to all the problems facing Indians today. Other Federal agencies and State and local Governments also have Indian concerns and responsibilities. It is not only desirable but essential that we work together more closely to take advantage of each other's resources and thinking which hopefully will minimize duplication and maximize total delivery of services. I will make a concerted effort to establish and maintain this needed cooperation.

Of high importance is cooperation between the Congress and the Bureau. I have been following with great interest the progress being made with Indian legislation by this Congress. This progress is more than encouraging in that it demonstrates Congress' understanding of Indians and its sincere desire to provide much needed laws to meet today's needs.

I am extremely hopeful that you will be successful in enacting the Indian legislation before you in the near future. Once enacted, we will be able to more effectively deal with the Indian crises along with the many other foreign and domestic crises facing our country today.

I know that you will want my personal views on many issues facing the Bureau today. Rather than anticipating your specific concerns and attempting to expand on my views in this statement, I will reserve most of my comments for direct response to your questions. You and the Indian people, however, have a right to know what priorities I feel are important in Indian affairs.

If I left you with the impression earlier that I am unconcerned about the organizational structure of the Bureau, this was not my intent. My real intent was to place this concern in its proper perspective. Reorganizations and realignments are administrative problems rather than mission concerns. My primary objective is to insure that whatever form the organization happens to be in now, or whatever form it may take in the future, that it be as effective and responsive as possible. If major changes are warranted, these will be taken at my initiation and under my direction. No major changes will be implemented, however, without full Indian involvement. The most immediate concern is in filling our key positions and becoming fully operational again.

In addition to my concerns for the organization and developing cooperation between the Administration, this Congress and State and local governments, I feel very strongly that our efforts must be consistent with the expressed desires of Indian people. From my experience in Indian affairs I have developed a tremendous respect and confidence in the Indian leadership throughout this country. The quality of this leadership is demonstrated by numerous examples of outstanding tribal government management, a total commitment to the development of both human and natural resources, and the ability to maintain progress without sacrificing Indian culture. What is most impressive is the unwaivering faith Indians have in Indians, that given the opportunity Indians can and will solve Indian problems. Indian tribes must have the opportunity to develop their tribal governments. Resources must be made available to the tribes for this purpose. If assist-

ance is desired, this must be provided without paternalism. Developing effective tribal governments will be a major step towards true Indian self-determination.

The threat of termination has been a major barrier to the development of Indian resources, enterprises and governments in recent years. Whether real or imagined, the feeling existed that any successes might be used as justification for terminating the Federal Government's trust relationship. One of my major priorities will be to overcome this fear.

Basic to the role of the BIA is assuring the fulfillment of the Federal Government's trust and treaty responsibilities to Indian people and their resources. I intend to work closely with Indian people and the Solicitor to better define these responsibilities and see to it that the BIA fully discharges its responsibilities.

Of the many programs developed and administered for the benefit of Indians today, none is more important than Indian education. The American taxpayers are investing millions of dollars in the education of Indian youth. Indian people and all Americans have a right to expect that the best education program possible is being provided to Indians.

It is not enough to say that we are meeting minimum standards of education, or that we are providing an adequate level of education, or that we are doing our best under the circumstances. We must establish the highest standards possible and insure that those standards are met. We must utilize the most modern education techniques available and also develop new ones. We must provide the best materials, equipment and facilities available. Finally, we must insure that our teachers are not only the highest caliber available technically but also that they be personally committed and sensitive to Indian needs. In short we must be sure that each dollar appropriated for Indian education is spent wisely, whether through Bureau-operated systems or through other systems.

I recognize and respect Congressional responsibility to establish Indian policy. I also recognize and respect the oversight responsibility of the Congress to insure that the Congressional intent is met. As Commissioner, I look forward to working very closely with the Congress, the Secretary, and the Indian people in establishing National Indian Policy. Once these policies are established, I pledge to carry them out to the best of my ability.

Mr. Chairman, this concludes my statement. I will be pleased to respond to any questions that the Committee may have.

BIOGRAPHICAL SKETCH OF MORRIS THOMPSON

President Nixon submitted the nomination of Morris Thompson to be Commissioner of the Bureau of Indian Affairs to the United States Senate on October 30, 1973.

Thompson was instrumental in formulating and implementing Indian policy as Assistant to the Secretary of the Interior from 1969 to 1971. In this position he assisted in developing the President's Indian message of 1970; was involved in the return of Blue Lake to the Taos Pueblo Indians; the return of Mt. Adams to the Yakima Indians, and he helped formulate the administration's position on the Alaska Native Claims Settlement Act.

For the past two years Morris Thompson has been Juneau Area Director, top line official for the Bureau of Indian Affairs in Alaska. In this capacity he has had full responsibility for administering the total range of Bureau programs with an annual budget of 40 million dollars and approximately 1200 employees. Significant activities include accomplishing a Tribal enrollment of well over 80,000 Alaska Natives within a two year deadline and implementing other Departmental and Bureau authorities relative to the Alaska Native Claims Settlement Act. Regular on-going Bureau programs and facilities in Alaska include 53 day schools, two Boarding schools, 5 field offices and a 10 ton cargo ship.

Thompson, an Athabascan Indian, at age 31 was the youngest man in BIA history to be named an Area Director. Now, at 34 will be the youngest Commissioner when appointed.

From 1967 to 1969 he was Executive Secretary to the ten-man NORTH Commission. He was responsible for establishing policies and defining a comprehensive program to implement and promote the human and economic development of Northern Alaska. Additionally, he coordinated the activities for the Commission—economic research and evaluation of the work done by consulting firms—and acted as a liaison between State and Federal agencies.

Before accepting appointment to the NORTH Commission Thompson was Deputy Director of the Rural Development Agency for the State of Alaska. He assisted in the establishment of the Rural Affairs Commission which is a forum of Native leaders who advise the State administration on matters of policy regarding the Indian community. In his role as Deputy Director he also helped with the coordination of emergency relief programs created to alleviate disasters such as floods, fires, poor fishing seasons, etc.

Morris Thompson was born in 1939, in Tanana, Alaska, a community 150 miles west of Fairbanks on the Yukon River. Here he attended school through the eighth grade. During high school years he attended Mt. Edgecumbe BIA Boarding School, graduating as a member of the National Honor Society in 1959. For the next two years he attended the University of Alaska majoring in civil engineering with a minor in political science.

At this time BIA Employment Assistance was recruiting students interested in electronics technical training. Thompson took advantage of this opportunity and moved to Los Angeles, California, for training at RCA Institute. Here he met his future wife, Thelma Mayo from Fairbanks, Alaska, who was also in Los Angeles for a BIA training program.

Upon completing the Electronics course in 1963, he returned to Fairbanks, married Thelma, and worked as a technician at the RCA satellite tracking facility at Gilmore Creek near Fairbanks until 1967.

The Thompsons now have three daughters—Sheryl Lynn, age seven; Nicole Rae, three; and Allison May, 18 months.

Thompson has served on numerous boards and commissions during his career as a public servant including the Rural Affairs Commission, the Alaska Village Electrification Co-op and the Alaska Business Council. Currently he is President of the Juneau Federal Executive Association, a Board member of the Alaska Native Foundation, and a member of the National Congress of American Indians. He was formerly a Board member of the Fairbanks Native Association, and the Alaska Federation of Natives.

MORRIS THOMPSON PROFILE

BIRTHPLACE

Tanana, Alaska.

BIRTHDATE

September 11, 1939; one-half Athabascan Indian.

SCHOOLS ATTENDED

Tanana Day School—Grade 1–8.

BIA Mt. Edgecumbe Boarding High School—Grade 9–12; National Honor Society member; Graduated 1959.

HIGHER EDUCATION

University of Alaska—9/59 to 1/62. Major, Civil Engineering; Minor, Political Science.

RCA Institute, Los Angeles, California—1/62 to 8/63. Completed 18 month course in Industrial and Communications Electronics.

EMPLOYMENT

1963–1967—Electronic Technician at the National Aeronautics and Space Administration's Satellite Data Acquisition Facility at Gilmore Creek near Fairbanks, Alaska.

1967–1968—Deputy Director of Rural Development Agency for State of Alaska in Juneau, Alaska.

1968–1969—Executive Secretary of NORTH Commission for State of Alaska in Juneau, Alaska.

1969–1971—Assistant to the Commissioner (actually Assistant to the Secretary of Interior, Walter J. Hickel) in Washington, D.C.

1971–1973—Area Director of BIA Juneau Area Office in Juneau, Aalska.

SPECIAL QUALIFICATIONS

Public Speaking.

Extensive knowledge of Indian groups and Tribes. Knows many Indian leaders personally.

Extended travel throughout Indian country.

MEMBERSHIPS AND ASSOCIATIONS PRESENT

Alaska Native Foundation.

National Congress of American Indians.

President of Juneau Federal Executive Association.

Governor's Labor Market Advisory Council.

Policy and Evaluation Council of the Center for Northern Education (University of Alaska).

State Manpower Planning Council.

Alaska Health Manpower Committee.

PAST

Rural Affairs Commission.

Alaska Village Electrification Cooperative.

Alaska Business Council.

Fairbanks Native Association.

Alaska Federation of Natives.

UNITED STATES, RHODESIA, AND A WORLD OF LAW

Mr. McGEE. Mr. President, later this week it is anticipated the Senate will begin debate on legislation which would place the United States back into compliance with United Nations sanctions against southern Rhodesia.

In this connection, the Los Angeles Times of October 17 featured an editorial which is an excellent analysis of the issues involved in this legislation. The editorial writer made a very poignant observation when he noted:

> If the United States wants a world of law, it must obey the laws we have. If the laws are mistaken, if they require improvement, then they should be changed or done away with, by means provided by law.

I was particularly impressed with this observation. In essence, the question of our violation of sanctions boils down to a law and order issue. To ignore this fact is to engage in hypocrisy, particularly if we in the Congress continue to advocate law and order on the domestic scene with our rhetoric and then apply a double standard to our conduct internationally. In clear conscience, I cannot apply this double standard and I would hope the Senate would agree with this assessment.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UNITED STATES, RHODESIA, AND A WORLD OF LAW

Secretary of State Henry A. Kissinger has put the full weight of the Nixon Administration behind efforts to make the nation obey international law on the question of U.N. sanctions against Rhodesia. The support is welcome, but the outcome remains uncertain.

There is an apparent shift in congressional thinking, and there are indications that the House and Senate are now prepared to undo the damage they did two years ago in forcing an American exemption to the sanctions to allow the import of Rhodesian chrome. It was an act as irresponsible as it was illegal, bringing aid and comfort only to some American mining interests, to the white minority that governs Rhodesia, and to their admirers. Now those same advocates of Rhodesian exemptions, faced with a turnabout in Congress, are working hard to postpone action and might resort to filibuster tactics.

Kissinger has reminded the nation that the importation of Rhodesian chrome is not essential to national security. He has emphasized that America's unilateral breach of international sanctions has embarrassed relations with a number of nations, notably the Africans. And for those not persuaded by rectitude, who say: "Who cares?", Kissinger has noted that this has touched major American investments and petroleum interests as well.

There is plenty of room for argument about the wisdom of what the United Nations did in this case, applying for the first time one of its ultimate weapons, mandatory sanctions. But the deed was done with American encouragement and support. The sanctions became binding by law on all members. If they are wrong, then that is a matter for the Security Council. To defy them is to debase the concept of a rule of law.

The sanctions have failed to bring down the white supremacy regime in Salisbury. But they have hurt. They have stood as a world protest against a white minority, constituting 5% of the population, ruling a largely black nation. They have helped assure that this degradation of the black minority is not exploited to the economic advantage of other states within the United Nations.

To argue national security, to tie chrome imports to the cold war and Soviet trade relations, to challenge the efficacy of this approach, all of this is to sow confusion. For there is a single point: If the United States wants a world of law, it must obey the laws we have. If the laws are mistaken, if they require improvement, then they should be changed or done away with, by means provided by law.

That is why it is important for Congress to restore American respect for the sanctions against Rhodesia. Because the overwhelming interest of the nation is a world of law.

REDUCED RATE TRANSPORTATION

Mr. PERCY. Mr. President, as a cosponsor of S. 2651, a bill to authorize reduced rate transportation for handicapped persons and for persons who are 65 years of age or older, or 21 years of age or younger, I am pleased the Senate acted so promptly in taking the bill from the calendar and passing it, but I regret being absent when final action took place.

As one who has long advocated making our transportation system more accessible in financial terms to the elderly, a group with both the time and the desire to travel, I want to commend the Senator from the State of Washington (Mr. MAGNUSON) for his leadership in bringing this more comprehensive piece of legislation to the floor.

I think we all know that in those instances in which airlines, for example, have instituted reduced fares on a standby basis for the elderly, they have been shown to have worked extremely well. Youth fares, although recently judged discriminatory by the CAB, have been successful, I believe, in promoting air travel by many persons who otherwise could not have afforded to travel.

I believe authorizing reduced fares for the young, the elderly, and the handicapped on both air carriers and surface carriers marks a significant step toward finally making a variety of transportation modes available to them.

If these fares become a reality I know it will result in higher income for the industry as well as in a richer and fuller life for many of America's youth, handicapped and elderly.

SONNETS IN MEMORY OF ROBERT KENNEDY

Mr. McGOVERN. Mr. President, the current issue of The Arts in Ireland carries three sonnets in memory of Robert Kennedy by Frank S. FitzGerald-Bush.

I found this poetic tribute to my cherished friend a moving description of what he meant and continues to mean to millions of people.

I therefore ask unanimous consent that these lines be printed in the RECORD.

There being no objection, the sonnets were ordered to be printed in the RECORD, as follows:

HECHOS SON AMOR—THREE SONNETS IN MEMORY OF ROBERT FRANCIS KENNEDY, 1925–1968

(By Frank S. FitzGerald-Bush)

I

They called him ruthless who had never known
his infinite capacity for love—
knew nothing of that suffering in his own
quite private agony, compounded of
pain and compassion for the pain of others,
accepted without question as a duty
which fell upon him from his fallen brothers.
His closest friends and kindred saw the beauty
that others could not see—the inner grace
derived from those dark hours of despair
from which he drew the strength required to face
that task to which he made himself the heir.
So long as those whose lives he touched still cherish
his memory, his work can never perish.

II

His deeds of love were for all men in chief
for the despised, the poor, both black and white,
the dispossessed; and it has been their grief
that rings the truest—wrings the heart. The sight
of their great numbers ranged along the tracks
on which he made his final journey burns
into the memory. Those whose attacks
on his integrity (though each now turns
to eulogy) urged violent men to rid
them of his troubling presence, are proved wrong:
such dreams as he had dreamed cannot be hid
in graves, nor guns still such a battle song.
The shining cities he envisioned must
rise like the living phoenix from his dust.

III

Above the city where that bright flame keeps
its solitary vigil, two now rest
while into darkened corners hatred creeps
to hide its ugliness from us. The best
of man, despite his frailities, yet survives;
by such example petty souls are raised
a little higher. Note how those two lives,
once sacrificed, are curiously praised
by those who cursed them till they had been felled.
The younger brother slain, now may achieve,
as did the elder, what had been withheld
in life. And those of us who truly grieve
will wear our mourning proudly as a mark
that we may light a flame from one small spark.

AMERICA'S EMERGING BLACK WOMEN

Mr. PERCY. Mr. President, the Chicago Tribune recently featured an excellent series of articles by Yla Eason on the black woman in modern American society.

Through a number of profiles of American black women who have achieved success in the fields of politics, business, education, and art, Ms. Eason shows that although black women have won professional positions of respect and dignity, they have only been able to do so because of extraordinary individual strength and perseverance. Black women, as members of two minority groups, blacks and women, have long faced double difficulty in achieving professional success.

I believe the Chicago Tribune's series provides excellent insights into the career problems, aspirations, and gradually increasing professional opportunities of America's black women and women in general. I ask unanimous consent that the series of articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TODAY'S EMERGING BLACK WOMAN

(By Yla Eason)

(First in a series)

Addie Wyatt, ambitious and naive, trained as a typist in 1941 and went for her job interview expecting to be hired for the secretarial pool at a meat packing plant.

She was praised for her skills and sailed thru the placement tests, assured she would be hired. Being the only black female applying for the job was no cause for concern to her, for she knew she was qualified.

"What I didn't know at the time," she says from her executive office today, "was that they didn't hire black women as typists."

So she pulled together her survival techniques—making do with what she could—and accepted a job in the packing division.

Today Mrs. Wyatt is international director for women's affairs of the Amalgamated Meat Cutters and Butcher Workmen of North America, AFL–CIO.

But she is quick to say, "I represent the very limited number of women who have made progress in this area." They're the black women emerging today who learned to "get over" in the society and come out with a social conscience.

They've never allowed discriminatory practices to stop them. Black women in America have exhibited strength and perseverance.

Today's black women represent the double minority who feel the sting of racism and labor under the code of sexism in an attempt to overcome both.

And while it's long been said in the black community, "A black woman can always get a job," the unspoken understanding was

that she usually had to get in thru the kitchen door.

Many times, as Mrs. Wyatt adds, "Black women took the undesirable jobs, ones they did not enjoy. But they took them for the survival of their families."

Survival for the black woman often has meant assimilation into the white society, a process requiring more than education or experience in the traditional sense. For black women workers, "being qualified" often has meant "being white," at least on the surface.

If she had to "sound white" on the telephone to get the interview, the black woman studied white speech patterns. By watching white people interact with each other on television, she knew how to "be qualified."

Skills and ambitions were parlayed into a wait at many reception desks until business and industry embraced the Civil Rights Bill, the Equal Opportunity Employment Act, affirmative action, and tokenism.

According to noted sociologist Dr. Joyce Ladner, who has done extensive research on black women in America and Africa and is the author of "Tomorrow's Tomorrow," a study of young black females living in a housing project, "The lives of black women have been shaped by the forces of oppression, but they also have exerted their influence so as to alter certain of these patterns."

One example of black women exerting their influence can be seen by turning to the television newscasts. Most networks today have at least one black woman in front of the camera.

For Carole Simpson of NBC, it took two years of work and two college degrees to become the first black newswoman on the air in Chicago. In 1970, she was the first black female television reporter here.

By 1965, the year she dates as "post-Watts," referring to the riots in Watts, Cal., "I was in a position to turn down job offers." Many black reporters were hired during that period to cover the racial conflicts.

Dr. Ladner explains some of the difficulties black women have had: "They were discriminated against because they were black and because they were females. At the same time, because of the economic conditions in which blacks had to live, black females were not given the same kinds of securities and privileges of being the weaker sex.

"The irony of this," she says, "is that altho she was discriminated against and thrown into that competitive man's world, she was able to operate as a woman and make it work in her behalf."

In 1971, only one in 10 black women had professional positions. By 1973, Money magazine reports, the graduate most in demand seemed to be the black woman with some kind of engineering or business degree.

The success of the black woman in the professional field, according to Cynthia Fuchs Epstein in Psychology Today, "is the combination of being highly motivated, egged on by supportive families, seen as less threatening than black men, and pushed by the feminist tide."

When the storm settled from the intense period of the black liberation movement, the employer was hit by the women's liberation movement and was pressured by government-imposed minority hiring quotas.

Black demands for equality coupled with equal rights for women were the impetus for labor to begin to acknowledge black women.

And now black women are beginning to trickle into the mainstream of society, Dr. Ladner says, "one by one, on society's terms."

While many contend the entry rate of black women into professional fields is accelerating, others share the view of Connie Seals, executive director of the Illinois Human Relations Commission.

"Sure there are about 40 to 50 black women making it professionally today, and they know the other 39 or 49," she says.

The Department of Labor reports black women workers are far more heavily concentrated than white women in the lower paid occupations. Maids, cooks, and household and service workers still account for 43 percent of all employed black women, the department says. Only 19 per cent of the white women workers fall into this category.

The Department of Labor also reports that, despite advances, differences persist in the employment patterns of black women and those of other groups.

Black women are more likely than white women to be in the labor force, to be working wives, and to be working mothers.

Black women workers generally have less formal education, higher rate of unemployment, and lower incomes than their white counterparts.

They also are more likely to be in low-skilled, low-wage occupations. In comparison with minority men, their rates of unemployment are higher and average earnings are lower.

When one examines income data, "one is immediately struck by the fact that black women have been had," says Dr. Jacquelyne J. Jackson, associate professor of medical sociology at Duke University Medical Center in Durham, N.C.

In 1969, she reports, the median income of black females was $2,078—$435 lower than the average white female made, $2,670 less than the average black earned, and $5,812 less than the average white male made.

Dr. Jackson says, "I am especially concerned about the myths which link a black woman's education, employment, and income to her family patterns.

"Such myths tend to reinforce erroneous beliefs directly affecting social policies, which in turn adversely affect many black females."

Labor statistics point to the fact that only three of every 10 black families were headed by women in 1971. Likewise, about half the black women workers were married and living with their husbands, 28 per cent were widowed, divorced, or separated from their husbands, and the remaining 23 per cent were single.

Nevertheless, black women are beginning to make their unique statements in politics, labor, education, business, and the arts.

At least their progress in many closed areas seems to say, "Altho I've got a long way to go before I see equal opportunity, I can look back realistically and see how far I've come and begin to project where I'm going."

One reason for this, Addie Wyatt says, is that "women are more educated. They are going into different fields and are more aware of and sensitive to their rights.

"And they are informing their employers that women work for the same reasons men do—they have something to offer and they need the money."

When the typing job was denied her, she said, "Women in the plant earned more money because they were more organized; so I lost interest in typing and stayed at the packing division.

"As a black worker and a woman," she reflects today, "I knew I could be the first fired and the last hired, and it was important to have union protection and benefits."

To Mrs. Wyatt, "making it" and settling for that is an acceptance of tokenism.

"We have to give recognition to those who have not and who ought to. And we must keep the door open for the development of black women."

In the Monday Tribune's Tempo section: Black women in politics.

THEY'VE OVERCOME A DUAL BIAS

(By Yla Eason)

(Second of five parts)

Led by a few superstars, the black women today are making long, swift, and determined political gains, emerging as a force not to be ignored.

Her stride into the electoral arena has been thru a circuitous route, marked by a slow procession to local officers followed with a quick jump to federal positions.

And in the game of politics where all pluses help, one whammy—black—is piled on another—female. To deal with the double blow, she's had to angle around and backslide until the people could be convinced she could do the job.

She proclaims her savvy with the fact that in just four years, the black female has more than doubled her presence among elected public officials. This represents a 160 per cent increase in the number of black female office holders since 1969.

But considering there are seven million black women of voting age in the United States, her share of the 520,000 elective offices is embarrassingly small.

Sticking fast to the "superstar" label early in the game was Shirley Chisholm, who captured national attention with her self-announced "un-bought, unbossed" manner.

She tagged a number of "firsts" to her name in the process: In 1968 she became the first black female to be elected to U.S. Congress. Again in 1972 she hopped into the Presidential contest as the first black female to run for that office.

Her entry into the latter campaign touched off a controversey among elected black male officials in particular who felt her move was premature and detrimental to black coalition politics.

Her shrewd, sophisticated style of taking care of "number one" showed that not all black women in politics are cut from the same cloth.

In fact, the thread which contributed to her prominence—being the only black female in Congres—can no longer be woven for others. Three black women joined the ranks of Congress this year.

And Mrs. Chisholm has said recently she is "moving in the direction of getting out of electoral politics." She believes Congress has no organized system of getting legislative work done.

But to the casual observer, her aggressive plunge into politics was seen as the green light for other black women with similar ambitions.

There were no major black female political officials in 1969; today there are three.

After serving two terms as city clerk, Doris Davis became mayor of Compton, Cal. The black woman has lengthened her numbers in elected offices from 131 in 1969 to 337 in 1973.

But she has had to fight, persist and struggle to make even a minimal impact on the electoral system. A case in point is Peggy Smith Martin.

"Unsuccessful challenger" and "perennial candidate" were once synonymous with the name Peggy Smith Martin, who was defeated four times for the office of state representative in Chicago.

Winning the right to represent the 26th district in November, 1972, Mrs. Martin took her seat as the only black female in the State House.

"Perseverance," she said, was the key to her victory.

"I always felt one day I would be in the State House. Just as one day I will be President. Then I will feel I have had it made."

But she will be dodging the statistics which show that only half of the black women

elected to offices are still in those positions four years later.

The Joint Center for Political Studies in their research on "Black Women in Electoral Politics" found her lack of tenure in office is a significant drawback for the acquisition of power.

This could be attributed to her lack of campaign funds, an unwillingness to assume the responsibilities of winning and holding a position, or her despair in discovering how difficult it is to change the present system.

Often one elective office is a stepping stone to a higher office. However, the Joint Center reports, there was little mobility among black women elected officials between 1969 and 1973.

Among those who did move upward are State Sen. Barbara Jordan [D., Tex.] and State Assemblywoman Yvonne Braithwaite Burke [D., Calif.]. Both women advanced from the state legislature to the U.S. House of Representatives.

The styles of these two women sharply contrast.

When Barbara Jordan came to Congress in January the word spread that the late President Lyndon Johnson personally called top Congressmen to make sure she got the committee assignments she wanted.

Described as "calm, cold and calculating," Miss Jordan once said, "Politics is equated with power. And black women have always known what power was about."

But the entry of Yvonne Burke to Congress was for many an exciting event. Before her political skills are listed, her beauty, charm, and grace are often mentioned.

An effective force politically, being a female has seemed to be her winning trait. She will be adding another dimension in November when she is expecting a baby—the first member of Congress in history to have a baby while in office.

Approaching politics from a traditional view is Illinois Rep. Cardiss Collins [Dem.—7th Dist.]. She worked more than 20 years as a secretary and a public auditor before running for any political office. And her jump into the House of Representatives was seen as a giant step.

"I came to Congress as a woman whose major contribution is now considered old-fashioned: I came as a wife and a mother," she said recently.

To many she is seen as one who came to Congress, as a widow, filling the unexpired term of her late husband George, with loyalties first to the Democratic party.

She has recently become the target of criticism from the black community and had been charged with "letting black folks down."

Her critics point to the two young white males she chose recently for her top congressional staff positions.

The selection of John D'Arco Jr., son of the 1st Ward Democratic committeeman, as her administrative assistant and Rick Praeger as her legislative assistant has been viewed with suspicion.

Scoffing at the attacks, she remarks, "I realize that [no prior political experience] is a deficiency and that is the reason why you choose your staff carefully. You have enough common sense to know what you want them to do."

She adds, "If I do my job and do it well that will be all the satisfaction I'll need. I'm not out there on an ego trip.

"I'm out here to do the best I can, and I think I can do a lot because I'm dedicated to my people. The only image I'm trying to build is that of a Congresswoman."

At the local level, the most common elective office held by black females are those related to education, primarily school boards.

About 41 per cent of all black female elected officials are in that category, the Joint Center reports. Approximately 31 per cent are concentrated in municipal offices.

Of all black elected officials, black females represent only 12 per cent.

While they account for 25 per cent of all women in the House of Representatives, they represent only six per cent of the 466 women in state level positions.

Today, blacks account for less than one-half of one per cent of all elected officials. In addition to sexual discrimination, the Center concludes, a major explanation for the underrepresentation of black females in elective offices is racial discrimination.

The real measure of what new dimension black women bring to electorate politics will be reflected by the changes they bring about for the total black population, many feel.

(Third of five parts)

A Move To Make a Higher Grade

(By Yla Eason)

A black woman with an education could forget getting a job a few years ago unless she was a teacher or nurse.

Searching for a way to make a living and striving to achieve a degree of responsibility in the community, she sought these two areas of study. Even today, education continues to be the field where she faces the least amount of discrimination against her race and sex.

But her educational level has not been vastly improved. In 1970, the average educational level completed by black women was 10th grade with 58 per cent completing high school. Only 4.4 per cent of black women have completed or gone beyond a college degree.

"During the 1960s the greatest educational gains were not those made by blacks at all, but those made by white males," sociologist Jacquelyne Jackson reports.

Between 1960 and 1970, there was a 1.8 per cent increase in the number of black women who received a bachelor's degree.

That compares with a 1.9 per cent increase for black males, a 4.9 per cent increase for white females, and, highest of all, a 5.2 per cent increase for white males.

The black female's position at the lowest step of the educational level has been firmly dictated by society's constraints.

According to the 1960 census there were only 222 black female attorneys and 487 physicians and no black women architects. These numbers increased to 497, and 1,855 and 107 respectively in 1970.

One reason may be black females have had less access to the most prestigious institutions of higher education than have black males and white females and males.

Dr. Jackson adds that black females receiving higher education have studied largely at the traditional teacher-training institutions, which has greatly affected their occupational patterns.

How have the attitudes of black women toward education changed? In what ways are black females contributing to the education of other blacks?

Two unique black women show how they have been involved in dealing with those issues.

In her office at the Black Women's Community Development Foundation (BWCDF) in Washington, D.C., Inez Smith Reid, executive director, recalls an experience which occurred during the research of her book, "Together, Black Women."

It began as a study of militant black women but she discovered the word militant was not appropriate. "I ended up describing them (the women involved in the black liberation struggle) as 'together' black women."

Among blacks "together" means having made a commitment to being black. It carries with it the responsibility of identifying social injustices and working toward changing them and the willingness to be proud of the black heritage.

BWCDF functions as a funding institution which contributes to studies done by black women about black women.

"We have a fellowship program which is geared toward the noted black scholar who has gotten her formal education and is attempting to contribute something to the scholarly world," Mrs. Reid says.

The other form of fellowship is geared toward the "grass roots" woman who has not had a chance for formal education and wants to improve herself educationally so she can make some input into the black movement.

The foundation sponsored a historic symposium last year in Chicago which brought together more than 200 black women from across the country to discuss their attitudes and their role in America's future.

"One of the mandates that came out of Chicago was one to improve communications abong black women across the country," Mrs. Reid adds. This led to a news pamphlet issued by BWCDF as a medium through which black women can get their ideas out to others.

She makes it a point to emphasize the foundation is not involved in the feminist movement. "We are trying to do things for the total black community."

The foundation services the important purpose of using black women as a source for change and contributing to the amount of educational information about them.

Women are also a source for change on the campus of Howard University in Washington, D.C., where Dr. Lorraine Williams is a silent mover in rearranging the educational approach to history.

"Because there are a lot of misnomers, misconceptions and distortions concerning the history of blacks in America, it is the responsibility for the black historian to reinterpret and reassess history," says Dr. Williams, who is chairman of the history department at the 10,000-student school.

Her own educational pattern speaks of changes that have occurred in the black woman's attitude toward learning.

For her master's degree she studied Germany's imperialistic policies in the Pacific "The emphasis was on Europe and the Western world then," she recalls.

And altho her professors in 1955 "wondered why I had the nerve to study for a doctorate," Mrs. Williams switched her focus of interest to the issues of the Civil War for her Ph.D.

As an educator she is hoping to legitimize different methods of historical data. "I see some evidence of the development and appreciation of social history, where historians will look at society as a whole and take into account contributions from all social levels."

Altho this concept has not gained wide popularity it is incorporated into the traditional educational system at Howard. There the attitudes of the working classes, slave narratives, and deeds of various groups in American society share an importance with presidential papers and books written by professors.

"As we study black history we will become aware of what Benjamin Quarles calls "Black history's diversified clientele," she adds.

Dr. Williams is one of a growing number of educators preparing the historical groundwork for the future education of blacks. Her goal is to insure that blacks themselves contribute to the writing of their history.

(Fourth of five parts)

Persistence Pays Off for a Few

(By Yla Eason)

The black woman in business is a negligible statistic in the financial world. Lacking a history in America as an entrepreneur, her ventures into this area are without precedent.

If her sex is a deterrent to getting into the business world, then her race doubly excludes her full participation.

Received coldly by banks when applying for a business loan, she usually has to go the route of guaranteed federal financing. And often if there is no male—black or white—in the proposed business, she finds her chances for success even slimmer.

With luck, verve, and friends, she is just beginning to make a tiny dent in the money market. But still, in 1973, charm outweighs skill and persistence supersedes all.

As a black woman in business, Ida Lewis' *raison d'etre* is to bring the events and happenings of interest to black people "upfront." Her New York-based magazine, Encore, is the element thru which she accomplishes this.

The former editor of Essence, a black women's magazine, Miss Lewis, 37, worked as a feature writer for Life Magazine, freelanced for the British Broadcasting Co., and wrote for the Washington Post and various foreign publications.

A year ago when she began Encore, "people were saying, 'Ida, black people don't read, you'll never get black people to read.' " Yet today the news monthly has a circulation of more than 100,000.

She adds the problems have been numerous, both on a personal level and from a business end. "But you cannot let these problems become obstacles," she says.

"Generally on a personal level you have problems with men who are very talented. Men are brought up in a society where they don't listen to women.

"However," she adds, "I would not be where I am today if men, some men, did not believe I could do what I am doing. It would have been impossible.

She feels that more blacks must help each other in the business world, "instead of thinking we have to cut the legs of this one and the arms of that one."

And she carries out this idea as a boss. "I don't believe in stifling people's ideas. I think you should give them room to express themselves. The only thing I tell them is to use good taste.

"I don't want to become a mother figure, where mommy makes all the decisions. They understand that I'm the publisher and editor and they respect that."

Making her contribution in an area opened recently to black women, she measures the progress of blacks in America "with how fair black people are with each other."

Sharing this attitude is Chicagoan Ann Rodgers, 41, owner of Village Maid Service, whose aim as a black business woman has been one of upgrading the status of maids.

She explains that a black woman maid has "arrived" in the industry when she's hired to clean office buildings. "This is still one area we haven't broken into," Mrs. Rodgers says, pointing out that virtually all black maids work in private homes.

Seeing the cash benefits of getting big office cleaning contracts, Mrs. Rodgers wanted to expand her business into that area. But unwilling to add that battle to her current one of trying to get a break in the catering business, she has lost interest.

"You have to learn to roll with the punches, be self-determined, and no matter what, you have to hang in there," is her personal philosophy. Since 1964, when she grabbed her $37 savings to start the business, Mrs. Rodgers has had to fight.

"It has not been easy. Capital has not been coming, and the minute people see you have a brain, they treat you as a sex symbol."

But she's reached her first goal of introducing dignity into the maid profession. The women who work for her have 9 to 5 jobs, five days a week, Social Security, vacation benefits and insurance.

"I see women who work for me as peers, and I seek their opinion because they do the work. We relate to each other on a level of respect.

"I can clean an apartment if the need arises," Mrs. Rodgers adds. "I consider myself a super maid, and I have no hangups about the word. It doesn't matter what you call a maid as long as you call her "Mrs."

Making profits for others and herself is the business of Victoria Sanders, 27, a Chicago stock broker who questions whether a black woman *really* makes it in business today.

Educated in business and economics, [she has three university degrees] she gave up her "afro" hairstyle and hip clothes in order to work as an account executive more than seven years ago.

In an article that appeared in The Tribune in 1971 Miss Sanders said, "I don't think of myself as a successful black woman, but as successful—if and when I think in those terms."

Today her salary is in the six figures. Last year she had 23 vacations, is one of four black women stock brokers in America, owns a condominium, drives a foreign sports car, and was recently named vice president of Daniels and Bell, the nation's only black-controlled securities firm.

But she also sees herself as a black woman wondering what way to measure success. While there are advantages ["When I go into an office I'm remembered and there is a lot of opportunity in this work."] she adds that discrimination still exists.

For instance, taxis pass her by. "They assume I'm going south." And often police stop her "just to find out what a prosperous looking black woman does for a living . . . I have had some truly embarrassing experiences.

"However," she says, "These little incidents of racial discrimination serve as a constant reminder that education, money and prominence don't do it for you—that is if you're black and female."

(Last of five parts)

FINDING ART THRU THE LOOKING GLASS

(By Yla Eason)

The role of the black woman in the arts has mirrored her real-life destiny. And only when that destiny improved—largely thru black consciousness and civil rights efforts—did her performing arts image reflect her true worth, dignity, and potential.

As an entertainer, her contact with racial discrimination has perhaps been sharpest, because in it she is pursuing a profession that has great moneymaking potential and where success is coveted.

Today, demands by blacks to see their lifestyle represented on the screen in a manner that reflects black pride has created a slot for the black woman as a movie star.

She is recognized as a new box office attraction; however many are concerned that blacks do not have enough control of the profits made from films about them. Economic discrimination has played a heavy part in reducing the scope of her success.

Success in the performing arts often had more to do with the black actress' ability to conform to contract agreements, agents, and audiences than with talent. And since the monied masses were white, she knew making it big would mean breaking color barriers—and that too meant she had to be better than her white counterpart.

According to Dr. Vada Butcher, dean of the college of Fine Arts at Howard University, Washington, D.C., "the black artist was allowed to perform and function in the world but not without harsh treatment and, often, low pay.

She didn't think in terms of getting a part in a movie unless she was in the role of a domestic. And only when there were plays written exclusively about blacks, such as "Porgy and Bess," could she think of getting a lead role, according to Dr. Butcher.

And since her contributions as a black woman had been systematically excluded from most literature, only a few respectable roles existed.

In 1968 Diahann Carroll was introduced to American television audiences, starring in the first series about a black woman. Miss Carroll was called "girl" 'in the media and referred to herself as "colored" on TV.

And tho her part as a registered nurse was introduced to "help improve race relations," blacks protested the image as one of bleached black.

With black audiences today expecting black movies to have a message for the total community, the image of the black female movie star should be contemporary.

Tamara Dobson emerged this year in such a role, that of Cleopatra Jones. She says today that the role has accomplished almost a: much in message as it has in recognition for her as an actress. A former model, the 6-foot-2 Miss Dobson had played several roles before capturing the lead in "Cleo."

In the movie Cleopatra Jones is a special agent for the federal government who returns home to find that a drug rehabilitation center, operated by her boy friend, has been the target of a drug frameup.

She seeks out the woman dealer and the drug ring supplying the community, and with support from others, karate chops her ways to victory.

"Cleo's achievements are vast and varied," says Miss Dobson. "She has respect, she knows karate, she can be with one man and love one man, she loves her people and she fights drugs—which are a big problem—and she is respected by the government."

The image, she feels, is one black women can identify with—that Cleo is a successful woman with positive goals.

As a black woman she wants to act in movies which will make black girls want to emulate positive black women.

WHY I HAVE CONFIDENCE IN AMERICA'S FUTURE

Mr. ERVIN. Mr. President, one of the Nation's most worthwhile civic organizations is the Exchange Club which has among its prime interests the encouragement of the youth of our land to engage in worthwhile endeavors. In this connection, it makes a national award entitled "National Youth of the Year Award" each year to some young person for outstanding achievements in civic, religious and scholastic activities, and for a philosophy of life expressed in essay form.

As a Senator from North Carolina, I take great pride in the fact that one of my most brilliant young constituents, Miss Helen Meredith, of Burlington, N.C., was named the recipient of the Exchange Club's 1973 National Youth of the Year award on the basis of her outstanding achievements in civic, religious, and scholastic activities, and for her essay entitled "Why I Have Confidence in America's Future." I feel that our Nation stands in need of her optimistic outlook at this time, and for this reason, I ask unanimous consent that her essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

WHY I HAVE CONFIDENCE IN AMERICA'S FUTURE

(By Helen Meredith)

America, America, you took me as your child,
You nurtured me, and watched me grow,
And showed me things profound.
I learned the pride and joy of my heritage so sweet,
And a reverence for my country to be held from deep within.
No, America, I won't desert you in your hours of woe,
For you've given me all I know and love.
You've placed within my soul a confidence.
"A confidence?" you ask. Why yes,
A confidence in your future as well as mine.
Don't despair, dear friend, for I'll always be true.

What is confidence? To me, confidence is that intangible feeling which tells me that my America will not let me down, and I, in turn, will not forsake her. Every child experiences a period in his life known as an identity crisis, in which he must decide exactly in what he may place his trust and confidence. I decided at a very early age to place my confidence in America for extremely valid reasons. For me, America has never disgusted, disappointed or discouraged me in any way, and I sincerely doubt that it ever will.

Why should I not place my confidence in my America's future? She has withstood almost every test a country can face in its existence. America has lasted through numerous wars, both civil and world-wide; wars which seemed to leave the entire world in devastation. She has suffered several depressions in which many of her loved ones were left homeless and starving. She has faced times of embarrassment and harassment from those within her boundaries as well as those from without her shores. Yet, she still holds her head up high.

In times of trouble and strife, Americans unite. They bind together for the benefit of our nation in an attempt to protect its future. A classic example of this is the advent of World War II. Americans seemed to be unaware or apathetic about what was happening to the world by the aggressive acts of Hitler, Mussolini, and Emperor Hirohito until December 7, 1941. Immediately, an unprepared America became of one accord—right for those treated wrongly; freedom for those oppressed. In less than four years we became a fighting nation; one which remained unbeaten. Peace terms were "American terms." Reconstruction grants were American generosity. People had a common cause in which they could believe, and they stood by it. As one can plainly see, when Americans unite in the face of a common cause, nothing can stop them. Doesn't this immensely boost one's confidence in America's future?

Our ancestors united almost two centuries ago for a common purpose called freedom of religion. They did not comprehend what lay ahead of them. As well as succeeding in attaining their religious goals, they established a democracy.

The whole secret of America's past, present and future lies in this word: democracy. Democracy allows a freedom of thought, not a captivity of the mind. We are not indoctrinated to think and feel as we do. People have the right to make their own personal decisions. Their minds are not possessed by government or a dictator. For example, a person has the right to worship as he desires. He has the freedom to become a Christian, Hindu, Agnostic, Atheist, or a believer of any Creed or Sect. After he makes his decision, he is not beaten imprisoned or threatened by government officials.

I, personally, have chosen to be a Christian. God has placed within my soul a confidence in America's future. Each day I pray that God will bless my nation as well as the inhabitants and leaders. In John, Chapter 14, verses 13 and 14, Jesus states: "You can ask Him for anything, using my name, and I will do it, for this will bring praise to the Father because of what I, the Son, will do for you. Yes, ask anything, using My name and I will do it." This is one reason why I have confidence in America's future. I have faith that God will honor my humble prayer and bless my nation.

My America was also built on the hypothesis that pride in one's country, a sense of liberty, and equality for all men lead to a successful nation. Thus far this hypothesis has proven to be unmistakably accurate. In few countries is it possible for a man to raise the social status into which he is born, but in America a poor, struggling farmer can rise potentially to President of the United States, We have the right to set our goals as high as we desire. However, we must strive to attain these goals.

Many people tend to stereotype the youth of today. They say, "He has no goals or objectives." They tend to believe the teen-agers of today are shiftless and totally incompetent. These people feel that America has a very grim outlook when my generation assumes leadership. However, every generation of Americans in our two centuries of existence has produced some exceptional leaders. There is no doubt in my mind that my generation will do the same. For example, note our high schools and colleges. They are filled with students who are anxious to learn. These young people have a desire to accomplish great things with their lives and it is here that they will have a chance to realize their aspirations. Almost every young person I met has been blessed with one or another talent. If we can unite all these talents for the good of this nation, she shall surely have an unwaveringly bright future.

We must never be content to merely laud the virtues of America and overlook her faults. This apathy is a sign of weakness, but in every form of weakness there exists some degree of strength, and one of this country's greatest strengths has always been the sincere desire of her citizens to rectify whatever shortcomings they might find in the hopes that it might lead to an even better, stronger America. At the appropriate time, I am certain our young leaders will shine as brightly as did our great leaders of the past; all the youth of today lacks is the seasoning of maturity. Yes, I definitely do have confidence in America's future.

NATIONAL DIABETES WEEK

Mr. McGEE. Mr. President, this week has been designated as National Diabetes Week. Diabetes is a major health problem in our Nation, afflicting from 5 to 10 million Americans. Each year, 325,000 new cases are diagnosed.

Although 35,000 deaths are officially attributed annually to the disease, diabetes is the underlying cause of many thousands of deaths that are officially classified under heart disease, stroke, and kidney disease. It is the second leading cause of blindness, producing blindness nearly 20 years earlier than glaucoma, the leading cause.

During this year's observance of Diabetes Week, the prospect of discovering a cure for the disease in the foreseeable future is greater than ever before. The Congress can provide invaluable assistance in the success of our research efforts if it will act favorably on legislation proposed by the distinguished junior Senator from Pennsylvania (Mr. SCHWEIKER) and me.

Senator SCHWEIKER and I have been joined by 30 other Senators in our effort to launch a nationwide attack on diabetes. The Senate Labor and Public Welfare Committee has unanimously approved our bill, and we are now looking forward to positive floor action.

Our attack on diabetes, as proposed in the bill, would be launched on four fronts: research, professional education, patient education, and public education and detection.

Our bill focuses efforts more sharply on the problem of diabetes, not only with increased emphasis within the National Institutes of Health, but also with significantly upgraded funding for an effective assault on the disease. It provides for a prevention and control program to be funded at the level of $17.5 million over the next 3 years. Most importantly, it also provides for a system of national diabetes research and training centers to be funded at a level of $45 million over the next 3 years.

Senator SCHWEIKER and I believe the key section of the bill is the one establishing a minimum of 15 national research and demonstration centers for diabetes. These centers would engage in basic and clinical research in the prevention, diagnosis, control, and treatment of the disease. Included in this effort would be the training of individuals to carry out such activities.

However, in spite of the critical need for mobilizing our resources to finding a cure for the disease, the administration has drastically slashed our medical research programs. This comes at a critical time, particularly since there are some very vital research projects which will be cut out completely due to lack of funds. The cutback in research will close down three projects which hold much hope and promise. One research project is concerned with the development of an artificial pancreas; another is related to the possible correlation of diabetes to viruses; and the third is the transplantation of healthy pancreatic cells into the diseased gland.

In this country today, we are only spending a maximum of $1.60 per diabetic per year on research. With the projected administration cutbacks in medical research, this sum will drop below $1 per diabetic per year.

With this background in mind, I would urge the Congress to take special note of this week and move favorably on our legislation. The significant research being done in this area is vital to discovering a cure for diabetes. The American Diabetes Association has recently prepared an explanation of these research projects which I think would be useful in assisting every Senator to making up his mind on this legislation.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPLANATION OF RESEARCH PROJECTS

Diabetes Week is being observed throughout the United States November 11–17 by a concerned public, led by the affiliate components of the American Diabetes Association. The seriousness of the disease was emphasized by Mrs. Gail Patrick Jackson, Chairman of the Association's Board, who pointed out that diabetes is a major health problem in the United States; the disease afflicts from

five to ten million Americans, with 325,000 new cases diagnosed each year.

Mrs. Jackson stressed that although 35,000 deaths are officially attributed annually to the disease, "diabetes is the real underlying cause of many thousands of deaths that are officially counted under the heading of heart disease, stroke and kidney disease. It is the second leading cause of new cases of blindness, and it produces blindness almost twenty years earlier than glaucoma, which is the leading cause."

During this year's observance of Diabetes Week, prospects are bright for the discovery of a cure for the disease in the foreseeable future. This hope is not based on a single research project, according to Dr. Addison B. Scoville, Jr., President of the American Diabetes Association, but on the work of a number of American investigators in California, Massachusetts, Minnesota, Missouri, New York, Pennsylvania and Texas.

Probably the most promising avenue of research that may lead to a cure for diabetes is the work on the transplantation of beta cells, the cells of the pancreas which produce insulin. Some diabetics seem to have too few beta cells to meet their bodies' insulin demand. Others may have a normal number, but the cells do not release enough insulin. Still others do not adequately utilize the insulin their beta cells produce. The goal of the transplants is to restore the body's ability to manufacture and release the hormone in sufficient amounts.

Diabetic rats have been cured by transplanting beta cells from nondiabetic newborn rats. The transplanted cells have spread through the rodents' bodies, establishing themselves in muscle, liver, fat, the abdominal wall and other tissues and, beyond doubt, have cured the animals' diabetes.

Just as a human may reject a transplanted heart or kidney, however, the rats' bodies eventually reject the transplanted beta cells unless the cells come from rats of the same, highly inbred strain. Nonetheless, it has been shown that tissue loses its susceptibility to rejection after it has been kept in a laboratory culturing medium for a time before transplantation. This culturing technique may solve the rejection problem and the last barrier to human trials will be removed.

Although much more work remains to be done, particularly in the area of rejection of the beta cell implants, the approach is expected to be ready for human trials within the next five years. The ultimate question is whether the transplanting method can prevent the complications of diabetes, which include blindness, kidney failure and blood vessel disorders. These complications are not controlled adequately by insulin injections and may be caused by factors not related to insulin output or high blood sugar.

The available forms of insulin only rarely produce normal blood sugar levels continuously, even when combined with an exact diet and exercise program. Therefore, research has been undertaken in several laboratories focusing upon new systems for treatment of diabetics that will insure normal blood sugar levels on a moment-to-moment basis. The goal is to produce an artificial pancreas or, more accurately, an artificial beta cell, the insulin-producing cell of the pancreas.

Two devices have been already developed which would be components of such an artificial beta cell that would regulate the blood sugar automatically in diabetics as it is done physiologically in nondiabetics.

One of these is a small implantable sensor capable of measuring the blood sugar continuously. Animal studies are underway now to determine the accuracy, sensitivity and longevity of this component. The other is a mini-computer that can be programmed to deliver insulin when the blood sugar rises, and glucose when the blood sugar falls. As soon as this phase is completed, hopefully by mid-1974, trials will be begun in human patients.

The computer and the sensor would be linked with a power supply, an insulin pump and a refillable insulin reservoir in a totally implantable system. It is conceivable that such an artificial beta cell would be available to diabetics by 1976.

Continuing research leads scientists to believe that insulin-taking diabetics may be relieved of the necessity for daily injections of the hormone sooner than many people thought possible. For example, significant progress has been made in the surgical procedures for transplanting pancreases.

The results of such organ transplants have been encouraging. A team of surgeons, using a new technique, has reported that one patient who has received a pancreatic transplant has survived for 22 months and another for 16 months. Both of these patients also had kidney damage due to diabetes, which necessitated kidney transplants.

In addition to providing insulin to handle sugar in the bloodstream, the pancreas secrets vital digestive enzymes into the duodenum, which is the section of the digestive tract just below the stomach. In the new procedure, the digestive role of the diabetic's own pancreas is preserved by leaving it in place. The donor pancreas is inserted in the body in such a way that its unneeded and powerful digestive juices can be drained into the ureter leading from the kidneys to the bladder and thus out of the body in the urine.

As with heart and kidney transplants, tissue rejection poses a problem, although one surgeon has suggested that the pancreas is the least susceptible.

Even though some obstacles to successful pancreas transplantation will doubtless be overcome, the problem of obtaining healthy organs will remain a formidable one. Only time can tell whether the functioning pancreas transplant will prevent or delay the appearance of long-term vascular complications. The operation must be performed in large numbers of insulin-dependent diabetics before the complications develop and the patients' progress studied for over 10 to 15 years.

Still, the hope exists. At some future time, it may be reasonable to offer the operation to individuals whose day-to-day regulation of diabetes is very difficult, even with the most careful adjustment of insulin dosage, and there may be a chance that the condition of their blood vessels will improve.

The word "infection" in connection with diabetes seldom appears outside medical journals and even there only infrequently. Yet there is evidence that it may be a factor in causing the disease.

Measles and mumps viruses are apparently the chief infection culprits. There are clear-cut data, for example, that infants with congenital measles become diabetic more often than can be explained on the basis of chance. It has been known for a long time that mumps virus localizes in the pancreas. Now it has been discovered that in at least one individual the inability to secrete insulin was very clearly related to mumps infection of the pancreas.

Linking this to the fact that diabetes tends to run in families, scientists have suggested the possibility that what some diabetics inherit is the tendency to, first, become infected with a specific virus and, second, to respond to that virus with a specific reaction, such as becoming diabetic.

This raises the possibility that as the genetics of diabetes are studied and the knowledge of its relationship to viral infection increased, it would be possible to prevent diabetes by immunizing the individual against certain viruses.

It has been found that it is entirely possible for one animal to contract diabetes on exposure to another diabetic animal. Research scientists studying a colony of diabetic guinea pigs found that approximately 90 per cent of the stock bred from the original animals became diabetic. In an attempt to breed out the trait, several groups of healthy animals were brought into the colony. In from six weeks to three months, approximately 60 per cent of the new guinea pigs became diabetic. Studies are now in progress to define the route of infection and the nature of the infectious agent.

"As each day goes by," Dr. Scoville continued, "more patients develop the disease and more complications occur which rob our nation of our most valuable resource—our young people, and older ones, too. When a cure is found, restricted diets, insulin injections, expensive oral medication will no longer be necessary. Those facing futures fearing blindness, renal disease and neuropathy will be permanently relieved."

Dr. Scoville stressed that although the volunteer sector of the American public was committed to obtaining contributions to speed the day when a cure and preventive for the disease could be found, this goal would only be achieved when the effort was joined by the Federal government.

"It's time," Dr. Scoville concluded, "for a cure."

WHY CONDEMN ISRAEL AND RHODESIA?

Mr. GOLDWATER. Mr. President, on October 24 an old and valued friend, Mr. C. C. Moseley, president and chairman of the board of the Grand Central Industrial Center, addressed a short letter to Secretary of State Henry A. Kissinger which he feels is of utmost importance. At his personal request, I ask unanimous consent that a copy of Mr. Moseley's letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OCTOBER 19, 1973.

Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

MY DEAR MR. SECRETARY: As Secretary of State you can now do a splendid service to mankind by convincing the United Nations that it should cease condemning little Israel and Rhodesia when absolutely nothing has been done to condemn Russia and China for not granting their people fundamental civil and human rights.

This is rank hypocritical nonsense—there can be no double moral standards when judging little Israel and Rhodesia against Russia and China. Moral integrity is demanded of the U.N. as well as of individuals.

Sincerely,

C. C. MOSELEY, *President.*

CARL McINTIRE, THE FAIRNESS DOCTRINE, AND THE FIRST AMENDMENT

Mr. ERVIN. Mr. President, I wish to bring to the attention of the Senate and the public an exercise of governmental power which I believe has transgressed the limits of constitutional propriety required by the first amendment. I am referring to the closing down by the Federal Communications Commission of radio station WXUR in Media, Pa.

To my knowledge, this represents the first time that the FCC has successfully invoked its so-called "fairness doctrine" to deny the renewal of a broadcasting license. After a prolonged battle, the courts have also now added their approval to

the FCC action. In doing so, they have sanctioned the FCC's violation of the first amendment's guarantee of a free press.

The aggrieved licensee in this case was the Faith Theological Seminary headed by the Reverend Carl McIntire, an outspoken and controversial figure of very conservative persuasion. The seminary acquired the license to WXUR in 1964 when the station was offered for sale by a previous licensee. In accordance with FCC regulations, an application was filed by the seminary asking for approval of the license transfer. After the application was filed, the FCC received letters from many individuals who opposed the transfer of the license to the seminary on the grounds that, given McIntire's outspoken record on controversial issues, the seminary could not be expected to operate the station responsibly or present controversial issues fairly. In the face of such speculative criticism, the seminary filed an amended application which specifically provided that it intended to abide by the "fairness doctrine" and would otherwise present balanced programing. The amended application mentioned by name those programs which it intended to broadcast which would provide such balance.

On March 17, 1965, the FCC approved the license transfer.

When the license came up for regular renewal a little over a year later, however, the station came under renewed criticism. Hearings on the license renewal commenced in October 1967, and lasted through June 1968. At the conclusion of the hearings, the FCC examiner ruled that the license of WXUR should be renewed.

The decision was then taken to the FCC which reversed it on July 1, 1970. The FCC based its decision on the station's failure to fulfill its obligations under the "fairness doctrine"—in other words, it failed, in the Commission's estimation, to present both sides of controversial issues of public importance. The Commission further found that the station had failed to satisfy the promises it had made in the amended transfer application; namely, to abide by the "fairness doctrine" and to present certain specifically named programs designed to balance the station's religious and public affairs programing. The FCC considered this a separate ground for denying the license renewal.

This second rationale was crucial for the three-judge panel of the Second Circuit Court of Appeals, which heard the case on appeal from the FCC order. Judge Tamm, writing for the 2 to 1 majority, affirmed the FCC decision both on the grounds that the "fairness doctrine" had been violated, and that "misrepresentations" had been made regarding the station's programing plans. The concurrence of his colleague, Judge Wright, was based solely on the "misrepresentations" contained in the amended transfer application. Wright specifically rejected, in fact, the "fairness doctrine" as a ground for decision in this case.

After reading the decisions, it is unclear whether WXUR lost its license because of its "misrepresentations," or because it violated the "fairness doctrine." But whether the station lost for one or the other or both reasons, the consequence still is that a unique voice on radio was stilled because of an arbitrary and unique application of FCC rules. Of all the thousands of radio and TV licenses that have come before the FCC since the "fairness doctrine" was enunciated, this is the only station which lost its license for violating the rule. When we recall the extremely controversial nature of Reverend McIntire's opinions, and the fact that the criticism the FCC received came from those who vehemently opposed his views, the real reason for the termination is clear. Dr. McIntire lost his right to speak because of his controversial exercise of the first amendment. The FCC rationales are the formal justification, but not the true cause of the FCC rejection.

Most of the alleged "misrepresentations" made by the station involved its promise to satisfy its responsibilities under the "fairness doctrine" either by general commitments or specific programing. The other "misrepresentations" found by the FCC involved the promise of the station to present other specific programing to insure diversified entertainment for the community being served.

It was established in the case of *FCC* v. *WOKO*, 329 U.S. 223 (1946) that the FCC may deny a broadcast license to any station which consciously misrepresents its intentions in its application for approval. The FCC, however, has no power to require a station to present any specific sort of programing. The Communications Act of 1934 makes that clear. The fact, then, that the station promised specific programs was done on the station's own initiative but was not something the FCC could have legally required—at least in specific terms—from the potential licensee.

Thus, to the extent that it was because of "misrepresentations" that WXUR was put off the air, these were with respect to promises that the FCC had no right to require in the first place.

This is a prime example of the byzantine and devious way that agencies such as the FCC operate. The station was forced by the FCC to make commitments. These, the FCC would argue, were voluntary—it always denies that it ever presumes to dictate programing. That, of course, would violate the first amendment—which the FCC likes to assure us it never would do. Having forced these promises, the FCC then denies the renewal on the grounds that the station failed to keep promises it was not legally required to make in the first place.

When all the legal mumbo-jumbo is cleared away, the fact remains that the FCC chose to apply highly technical rules to this single station, having been forced by outside political pressure to do so. It does not matter that the station's audience was small. Those few people who chose to listen have as much right to hear what they wish—and what WXUR alone was broadcasting—as anyone else. Unfortunately, the FCC and the court chose to regard these technical rules and strained reasoning as more important than the first amendment rights of the station and its listeners.

Last May, the Supreme Court denied certiorari in this case. I would presume that the Court itself was satisfied to let the decision stand on the basis of the station's "misrepresentations" to the FCC rather than tackle the thorny issues involved in the "fairness doctrine." Perhaps if these "misrepresentations" had been based solely on the station's promises to abide by the fairness doctrine or if there had been no "misrepresentations," but only a violation of the "fairness doctrine," the case would have fared differently.

The case calls for a reexamination of the FCC's "fairness doctrine," at least as far as radio stations are concerned. The primary ground of the FCC's refusal to renew the station's license was its failure to present both sides of controversial issues of public importance. It found that WXUR, while presenting a steady diet of topical, controversial public affairs programing, failed to accord sufficient broadcast time to the presentation of contrary views by knowledgeable, articulate spokesmen. Presumably, even without the station's "misrepresentations" in the transfer application, the FCC would have denied the license on these grounds.

The "fairness doctrine" is a curious creature. It was conceived by its inventors as a vehicle to enhance rather than abridge the freedoms of speech and press. It is based on the theory that since broadcasting outlets are limited and available to only a few, the Government must assure that those who control them present more than simply one side of an issue to the public. The Supreme Court in the now famous Red Lion case defended the theory in plain terms:

> Where there are substantially more individuals who want to broadcast than there are frequencies to allocate, it is idle to posit an unbridgeable First Amendment right to broadcast comparable to the right of every individual to speak, write, or publish . . . It is the purpose of the First Amendment to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail, rather than to countenance monopolization of that market, whether it be by the Government itself or a private licensee . . . It is the right of the public to receive suitable access to social, political, esthetic, moral and other ideas and experiences which is crucial here. (395 U.S. 388–90)

I would agree with the Court that the paramount interest here is having an informed public. The question is whether the marketplace ideal is best achieved by requiring that each and every broadcast licensee present both sides of issues, or by "giving them their head." Under ordinary circumstances, I think it is clear that constraints on individual rights of expression can be justified—if ever—only when it is beyond question that the access of the public to the marketplace of ideas will be enhanced. If, as here, broadcasters can be silenced for failing to present both sides of controversial issues, this is tolerable only if the public's access to the marketplace of ideas is thereby promoted.

In the case of radio stations in gen-

eral, and Dr. McIntire in particular, I am not willing to concede that such suppression can be tolerated, because the marketplace ideal has been frustrated. I think, in short, that it is time for a reevaluation of the "fairness doctrine" by both the Congress and the courts, in terms of the realities of modern-day broadcasting—particularly radio broadcasting—and the values preserved by the first amendment. As Chief Judge David Bazelon, dissenting from the Second Circuit's majority opinion, stated:

> I think the time is overripe to take our blinders off and look further toward First Amendment goals than the next regulatory step which the FCC urges us to take in the name of fairness . . . the constitutional *validity of* each and every application of the [fairness] doctrine must be tested on its own, on a case-by-case basis. We must not be guilty of pouring concrete around the foundation of a doctrine which enhances the public's right of access in some circumstances but abridges that right in others.

The underlying rationale of the fairness doctrine is that since broadcasting outlets are so scarce, they must be regulated to insure balanced presentations of controversial issues. This is one assumption which can no longer be accepted without challenge. As of March 1973, there were a total of 7,399 radio stations broadcasting in this country. This compares with a total of 1,761 daily newspapers in circulation, and of these, 1,455 were the sole competitive newspaper in the locale they were serving.[1] Radio stations, on the other hand, are typically in competition with one another, not only for listeners, but for advertisers. Most Americans, wherever they are situated, can receive numerous radio signals, and usually this means they can hear competing views. In Dr. McIntire's case, while WXUR was the sole radio station in Media, Pa., the town was located in the greater Philadelphia broadcasting area within the range of a myriad of radio signals. Given such a broadcasting climate, it is difficult to defend the FCC's right to silence WXUR on the grounds that the public is not being served by the station's failure to present controversial issues fairly. The public has a plethora of radio signals to choose from. It is safe to say that the public in the Philadelphia area had a great variety of "respectable" views to listen to, but only from WXUR could it hear challenges to those views.

What the closing down of WXUR means is the loss to the public of a unique and controversial point of view. In an area with access to many and varied radio signals, the silencing of WXUR represented a reduction in public access to controversial programing. However responsible or rational the quality of the programing may have been, it unquestionably stimulated debate and offered a viewpoint otherwise unheard on the air.

It has now been silenced. The FCC cited not its failure to present controversial programing but its failure to present both sides of controversial programing. In essence, the Commission foresees every licensee saying everything from every point of view. To do less places their license in jeopardy.

I fear that the practical result of this doctrine—at least as far as commercial radio stations are concerned—is that very few say anything about anything from any point of view. The fact that speaking out on any issue of controversy imposes a substantial but uncertain burden on the station to present opposing views makes many reluctant to stick their toes in the waters of controversy at all. The risks are great, and the return too small. Broadcasting outlets are, after all and above all, economic ventures. Anything but "safe" controversy irritates listeners and drives away advertisers.

One can turn in vain from station to station looking for controversial public affairs programing. Instead, most outlets have turned to bland diets of music and hip patter. In Washington, one is struck by the number of all-news stations, all-pop stations, oldies-but-goodies, hard rock, soft rock, and a few classical stations. Together, perhaps, they are a mix that satisfies the general listening audience. But no one could pretend that each meets the varied tastes of radio listeners any more than WXUR did. What the "fairness doctrine" should aim at is not sameness, but variety. The goal should be that every radio listener can find somewhere on the dial a station broadcasting programs that respect his interests. That goal is not met by a doctrine which pretends to have all stations satisfy all tastes, but which works out so that significant audiences are denied any outlet at all. It is very possible that the threat of the "fairness doctrine" has, at least in part, been the cause. I would hazard to say that the doctrine has served to stifle the presentation of controversy and variety more than it has served to promote them.

In any case, the WXUR case deserves further consideration both by the Congress and the courts. The automatic application of the fairness doctrine to all licensed broadcasting outlets of any type in any city or locality regardless of the availability of alternative outlets bears particularly close scrutiny. Certainly in this case its application limits, rather than enhances the access of the public to controversial information of importance. Under such circumstances, it runs afoul of the first amendment.

I should point out that the Federal Communications Commission has undertaken a comprehensive study into the question posed here: Do the fairness policies truly promote a marketplace of uninhibited, wide and robust debate?[2] The Commerce Subcommittee on Communications has also considered the issue in hearings, as has the Judiciary Subcommittee on Constitutional Rights. But despite its long history there is presently no statute which provides for the fairness doctrine. It is a creature of executive regulation and has received the sanction of the courts; the legislative branch has not had a hand in it. I, for one, think that if the fairness doctrine is to remain with us, Congress should take a hand and enact a more flexible standard less susceptible of being abused at the expense of the first amendment.

THE "FAIRNESS DOCTRINE" RECONSIDERED

What the WXUR case illustrates, above all, is that continued, uncritical application of the "fairness doctrine"—without assessing its effects or challenging its assumptions in a given set of facts—can lead to a result quite anomalous with the purposes of the first amendment.

The WXUR case demonstrates that both the FCC and the Congress must reconsider the "fairness doctrine."

I have already stated that the assumption which underlies the "fairness doctrine" is that since broadcast frequencies are limited and therefore available to relatively few, those who are given control have a public responsibility to make good use of the medium.

I do not have any quarrel with this assumption as it stands, but I do quarrel with where it has led us. It has led us, first of all, to require that every broadcast licensee present all sides of controversial issues which he chooses to air. It has also led us to look at each case in a vacuum, in terms of a particular station's isolated performance rather than in the context of the marketplace of ideas. It has, in short, blinded us to the purpose of the first amendment, while paradoxically purporting to enhance it.

It is worth noting that the fairness doctrine does not require licensees to present a specific quantity of controversial programing, although this would seem a natural corollary of the obligation imposed by scarcity of broadcasting outlets. What it requires, instead, is the presentation of opposing views on any issue which the station chooses to air. Implicit in this is the fear that broadcast licensees, operating without constraints, will exercise a powerful, and perhaps even oppressive, influence over public opinion.

In a locality which has very limited access to broadcast signals of any type, the fear might be well founded. But in today's world of modern communications, it is the rare home indeed which is not in range of many broadcast signals. To suppose that a station may become "oppressive" by virtue of its monopoly of the airwaves strikes me as a false and unfounded worry. On the one hand, no broadcasting station is going to stay in business for long without a listening public. To suppose that an "oppressor" station might be able to exist without the support of at least a large segment of the listening public ignores the economic realities of modern broadcasting. Furthermore, with the abundance of available signals in all but the most remote parts of the country, the listener is not forced to listen to what he does not want to. He has only to change the dial.

The requirement that all broadcasters must present both sides of any controversial issue in order that the public will not be misled or intellectually short-changed does not seem founded in a realistic appraisal of today's media. Even more crucial, it works a positive harm to the content of broadcast journalism by inhibiting the presentation of contro-

[1] Report of the Roper Organization, Inc., "What People Think of Television and Other Mass Media, 1959–72," May 1973, p. iii.

[2] FCC Report, Major Matters Before the Commission, December 1972, Docket No. 19260, p. 9.

versial issues of public importance. Any licensee who presents controversial material on one side of an issue, at the same time must undertake to present contrary opinion on the same issue. If he fails to make what the FCC regards as a "reasonable" effort to do so, his license is denied. I think it matters very little whether the FCC is or is not prone to invoke the doctrine. It hangs there all the same as a threat to the station's very existence. When it strikes, as it did WXUR, it tells all the media to be careful lest they also fall victim.

Basically, it chills the station's inclination to advocate. And for those stations who are eager to demonstrate their "public consciousness," either to the public or the FCC, it acts to inhibit the presentation of all but "safe" issues, which are controversial but not too controversial, which are "sexy" but inconsequential. The station can air these without fear of public uproar or FCC attention. Unpopular or emotionally explosive issues, on the other hand, run the risk that people will complain and the FCC will find out. And furthermore, they present a more difficult problem in terms of programing balance because they stimulate greater reaction. More sides demand equal time, and the station is faced with the dilemma of which voice to air. Those disappointed may share their resentment with the FCC. If they are loud enough, the station may—like WXUR—fall victim to a suddenly rejuvenated "fairness doctrine."

However infrequently the fairness doctrine may be invoked to deny a broadcasting license, when it does occur we are presented with a prima facie violation of the first amendment. Here is the government silencing the voice of a broadcaster. I agree with Chief Judge David Bazelon, dissenting in the McIntire case, who stated that—

> [Such] abridgement of individual rights may be tolerated only when in the long run it enhances the right of the public to receive access to the marketplace of diverse views. Obviously, this requires a delicate balancing: any harm to private rights must be outweighed by benefit to the public.

This is a crucial point, because the "fairness doctrine" as presently applied, requires no such balancing. It requires no examination of the particular marketplace of ideas of which a particular station's performance is a part. The FCC may look and does look at its licensee's performance in a vacuum. Under the terms of the "fairness doctrine," it looks only to see if the particular station has made a reasonable effort to present both sides of controversial issues which it airs. It does not have to determine how many other broadcast signals serve the listening area of that particular licensee, nor does it have to determine whether views contrary to the point of view of the jeopardized licensee are being presented on these airwaves. In short, the FCC can ignore the rest of the marketplace. If its licensee is presenting unique, albeit one-sided, views to its listening public, closing it down means a loss and not a gain for the marketplace.

Under Judge Bazelon's formulation, if the public's access to ideas is not in the long run enhanced, silencing an individual station has no justification and constitutes a violation of the first amendment. I could not agree more. But since the FCC need not make such a determination to invoke the fairness doctrine, there is a good chance that first amendment values may be ignored.

If the fairness doctrine is to remain with us, I think it must be restructured to remedy this gaping and critical constitutional defect, and to reduce its chilling impact on broadcast journalism. I propose no bill here, but I do propose a possible approach such legislation might take.

I would begin with the proposition that the fairness doctrine is a justifiable abridgment of the first amendment only if—

First. There is such a scarcity of broadcast signals available to a particular listening area that it is reasonable to assume that competing views on controversial issues are not being presented; or

Second. There is a showing that, regardless of the availability of broadcast signals in the listening area, competing views on controversial issues are, in fact, not being aired.

The fairness doctrine should be revised to incorporate these principles. Before invoking the fairness doctrine to deny a broadcasting license, the FCC should be required to establish a rebuttable presumption of scarcity. This might be accomplished by showing that the particular listening area of the licensee is not served by a sufficient number of other broadcasting signals to assure that competing views of controversial issues are presented. I suggest that this presumption of scarcity would arise in any locality served by less than four broadcasting signals. Once such a presumption was established, it should be sufficient to invoke the provisions of the fairness doctrine, unless the challenged licensee can demonstrate that, despite the limited number of licensees serving its listening area, competing views on controversial issues are, in fact, being aired within the area.

This formulation, it seems to me, would limit the application of the fairness doctrine to those situations where it still has a legitimate role to play. Moreover, it would eliminate much of the uncertainty now felt by both radio and television broadcasters in their presentation of controversial issues.

For all practical purposes, I think the formulation set forth above would put an end to the application of the fairness doctrine to radio. Only those few stations serving remote areas of the country not reached by other signals would be bound. How many such areas there actually are is not readily or precisely ascertainable. The available statistics do indicate, however, that there must be very, very few indeed. As of November 30, 1972, there were a total of 7,351 AM and FM radio stations in operation.[3] This compares with 2,777 radio stations operating in 1949.[4] Out of 230 specified metropolitan areas designated by the FCC, there was a total of 1,750 AM signals received in 1972.[5] This is an average of seven or more AM signals alone received in metropolitan areas. The nonmetropolitan community average was less than two stations per community, but even these communities ordinarily had access to at least one of the designated metropolitan areas.[6] It should also be noted that these figures do not include FM stations which number 2,873 nationwide. These further enhance the already abundant access of the public to radio signals.

The number of radio outlets in this country is so large, in fact, that the FCC cannot and does not attempt to monitor their performance. If the strictures of the fairness doctrine are ever invoked against a radio station, such as WXUR, it is only because the station's performance has been brought to the special attention of the FCC by those who object to it. Violations have been haphazardly identified, and sanctions have been haphazardly applied. The proposed formulation would all but eliminate the present uncertainty and arbitrariness. Most radio stations could proceed with their public affairs programing without the menace of ultimate censure hanging over their heads.

For television, the results would be less clear. While the fairness doctrine, under the proposed formulation, would still have more limited applicability to television than it has at the present, there would probably be greater applicability than in the case of radio. The reason for this is that there is more scarcity.

There are only 927 television stations in operation in the United States as opposed to 7,351 radio stations.[7] But even this relative scarcity pales in view of the growth of television broadcasting and its growing accessibility to the public. In 1949, there existed only 69 television outlets in the United States.[8] Now there are 927.

In 1972, 98 percent of American households with a television could receive three or more television signals. Twenty percent could receive 10 or more. There is no place in America which did not have access to at least one television signal, and only 0.2 percent which did not receive at least two.[9]

Granted, there are these few areas of limited accessibility. The FCC, therefore, would find it easier, under the formulation I have proposed, to establish a presumption of scarcity with television than it would with radio. I suggested the cutoff point for determining scarcity might be reception of less than four broadcasting signals in a given viewing area. According to the A. C. Nielsen Rating Service, 10 percent of American television households in 1970 fell into this category.[10]

I would also suppose that a challenged television licensee would have a more difficult problem than the radio licensee

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[3] FCC statistics quoted in Broadcasting Magazine, 1973 Yearbook.

[4] FCC, 38th Annual Report, Fiscal Year 1972, pp. 165–166.

[5] Id. at p. 199.

[6] Id.

[7] See footnote 1.

[8] See footnote 4 at p. 164.

[9] See footnote 1 at p. iv.

[10] A. C. Nielsen Rating Service, quoted in Broadcasting Magazine.

in establishing actual diversity among those stations whose signals were received in the viewing area. Eighty-seven percent of all television stations are now affiliated with a major TV network."[11] This means, in practical terms, that there is likely to be less diversity available than even pure numbers would indicate.

Still, television broadcasting would be under far less restriction than it is at present. For those stations serving areas with a high degree of programing diversity, the yoke of the "fairness doctrine" would be removed.

As Judge Bazelon suggested, it is high time for the FCC and the Congress to "take their blinders off" to the effects of the "fairness doctrine" as it is now being applied. At its best, it stifles controversy; at its worst, it silences it. In its present condition, it represents a fickle affront to the first amendment.

I have not advocated eliminating the fairness doctrine altogether, because I think it still retains a modicum of relevance. I do think we are tending toward its eventual elimination, but we have not arrived there yet. Perhaps as more stations gain access to the air and greater use is made of existing channels and the broadcast cable, we may be able to dispense with it entirely, leaving broadcasters to the same influences and pressures found elsewhere in the marketplace of ideas. For now, it is crucial that the fairness doctrine be modified in a manner less injurious to the freedom of expression.

I hope the Commerce Committee will take a close look at the WXUR case, and begin to consider how to move broadcasting out of the Government control that was justified in its infancy. It is high time broadcasting be afforded the benefits of the first amendment. More important, it is high time for the public to have the benefits of the first amendment.

DANGER OF PREOCCUPATION WITH WATERGATE

Mr. GOLDWATER. Mr. President, for many months, I have deplored the fact that many pressing national problems have gone unattended while the Nation, the media, and the Government itself were engulfed in developments and discussions regarding the Watergate scandal.

Now, it appears that the concern over this situation is beginning to be felt throughout the Nation. Many State Governors are upset over the fact that while we talk about Watergate other issues of great importance to the welfare and well-being of the American people go unattended.

Recently Gov. Jack Williams, of my own State of Arizona, addressed himself to this question. Because of their importance and timeliness, I ask unanimous consent that Governor Williams' remarks of October 23 to the National Association of Hospital Purchasing Management at Carefree, Ariz., be printed in the RECORD.

[11] FCC News Release, August 23, 1973, "TV Broadcast Financial Data," Table 7.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF GOVERNOR WILLIAMS

Thanks to the Arizona Army National Guard, I have made it on time to your meeting. I arrived in a Huey, an assault helicopter, one of thirty such machines of the 997th Aviation Company, which is in training to move troops and supplies into combat zones whenever needed. Many of these helicopters were used in Vietnam, some bore bullet holes, and after thorough overhaul are now being employed on missions of preparedness and peace.

With the draft abolished, with voluntary enlistments below projections and with cutbacks being made in our regular armed forces, the national guard of the United States has assumed a vital role in our defense posture.

Today, the Guard is part of the total first-line forces available to meet the obligations of national defense and treaty commitments. This is a new role, for heretofore the guard was a backup force, albeit a distinguished one.

Today, the guard and other reserve components represent thirty percent of our national military forces, yet it operates on only five percent of the national defense budget.

Training for possible war is just part of its duties, for guard units serve their States and communities in a hundred different peacetime ways.

Last winter, when severe storms halted ground transportation, our helicopters on three occasions carried food, medicine, hay and other supplies to the Navajo Indian Reservation in Northeastern Arizona and to the Havasupai Indians at the bottom of the Grand Canyon.

When a butane explosion took human lives and created a crisis at Kingman in Northwestern Arizona, the guard was summoned to assist local law enforcement officers.

When floods devastated areas along the San Francisco and Gila Rivers in far Eastern Arizona, driving many families from their homes and causing great property damage, the guard carried doctors on mercy missions and evacuated men, women and children.

Gentlemen, I am saying that the National Guard is an integral part of our lives—I am sure that some of you are members—and as good Americans it behooves us to support our National Guard in every way. With your backing, we can be confident that when the guard is needed it will be ready.

The helicopter carried me swiftly and surely to this lovely desert oasis, surrounded by the eternal hills, blessed by a clean, blue sky, but however far I travel, wherever I may go, I cannot escape the travail through which America, and everyone of us as Americans, is suffering this very moment.

The republic has endured many crises, and I pray we will survive this one, but we continue to pay a terrible and unnecessary price for our shortcomings and our inadequacies as a united nation. Our prestige and influence on the international scene are deteriorating. We are wasting time and our energy and our concerns on issues which, it is becoming increasingly apparent to us all, are horrendously political. This when we should be giving the best of our time and our energy and our concerns to vital problems and matters that affect the nation most. We talk about Watergate and virtually ignore, as a startling example, the cold, hard facts that Communist Russia, bent just as strongly toward world domination as it ever has been, is increasing its military strength, building the world's most powerful Navy, surpassing us in air power and missile capabilities, while our great statesmen argue for major cutbacks in our defense budget. Why not televise the military budget hearings and let America know what's going on? That's really important.

My premise is simple, and it is this: There is in America a great and powerful movement to destroy Richard Nixon as President of these United States. The reason: He represents and stands for national policies and beliefs and convictions that are unbearable to the great liberal element in this country.

There has always been a hate-Nixon campaign, deep-rooted, world-wide. We shall never forget the effort to "get" him on the Vietnam war issue and the return of our prisoners of war.

And now the ugliness of Watergate. A shameful sequence of events, yes, and inexcusable, but no sorrier than some of the things that have happened in other administrations in years gone by.

How many remember the fund that Governor Adlai Stevenson of Illinois collected from people who won State contracts? It was conveniently swept under the rug.

Some of the very Senators who are so critical of the President in the Watergate sideshow are the very men who voted against any investigation of the Bobby Baker affair.

The whole Watergate affair, and everything associated with it has deteriorated into a political dogfight.

Now, those who hate the President are talking of impeachment in the name of things good and holy. Baloney.

It must be made apparent to every American that the President has a constitutional responsibility to preserve and protect the integrity of his high office, else he would become a prisoner in the White House, of the Congress and the judiciary. Of course, he is already to some degree a prisoner, his authority to direct military operations severely curtailed, his programs for a better America denied by the vengeful majorities in both the House and the Senate.

It was very unfortunate when someone suggested to the President that Archibald Cox be named head of a Department of Justice team to investigate Watergate.

Cox brought between 40 and 45 attorneys, most of them from Yale and Harvard Law Schools, to Washington to help him with his operation. These lawyers were predominately antiadministration. They were the demonstrators of the 60's, fulminating against the war in Vietnam and taking part in campus dissent.

Cox is reported to have advised his legal army to buy homes in Washington as they would be there three or four years to quote "clean up the government".

Lately, he went far beyond the task to which he was appointed by undertaking to investigate the personal finances of the President.

There isn't an executive in this room who could or would tolerate the insubordination of Archibald Cox.

From the day of his appointment he has taken an adversary position against the President. Archibald Cox has taken sides rather than trying to fulfill the historic duty of an investigator and that is to investigate and study, and impartially seek to uncover the facts concerning a particular case or problem.

I think it is good that the President has chosen a showdown with his tormentors on the constitutional grounds of executive privilege and integrity.

The tapes are no longer the issue, as the Phoenix morning paper, the Arizona Republic pointed out today. The way is clear for both the courts and the Congress to learn what's on them.

A few moments ago the President announced that he would make the "secret" tapes available to the courts. Why they were secret and not confidential is a matter of semantics. Secret sounds more sinister, I

would presume. But again the tapes are no longer the issue. Richard Nixon is the issue himself.

Can he survive?

Meanwhile, the country—you and I and the institutions we represent—are paying an awful price, it may be later than you think.

For myself, I support the President of the United States, and the ideals and national policies for which he stands.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, it has now been a quarter century since the General Assembly of the United Nations adopted the text of the Genocide Convention. On December 9, 1948, the United States voted for the adoption of this significant landmark in the development of international law.

It was the United States which took the lead in helping to draft this convention and we were among the first to sign it. Today, over 70 nations have ratified this treaty; we have not.

Mr. President, millions of Americans will feel that a historic achievement has been registered if this convention at long last becomes an accepted part of the law of nations. I am convinced that the time is right and that the Senate must not delay any longer.

It seems to me that the United States should take every opportunity to champion the rules of law in the conduct of nations. It is imperative that we now give fresh vitality to our leadership in the struggle for human rights.

SKYLAB

Mr. SPARKMAN. Mr. President, as we approach the launch date for the third manned Skylab mission, we stand amazed already at the abundance of data returned to Earth from the first two manned missions completed in Skylab. We now find ourselves on the threshold of the completion of what must appropriately be termed one of the most rewarding peaceful achievements in history.

Although America's space program is properly referred to as a collective Government-science-industry venture, a major portion of the success of Skylab should be credited to NASA's George C. Marshall Space Flight Center in Huntsville, Ala.

The Marshall Center provided the Saturn V and Saturn IB launch vehicles for the Skylab missions, just as it did for Project Apollo, in which man so brilliantly explored the Moon. For the 8-month Earth orbit Skylab program, however, the Marshall Center went much further than its traditional role of providing the launch vehicles. As you know, the orbital workshop—crew quarters and laboratory for the Skylab crew members—was made from the third stage of a Saturn V launch vehicle. This workshop was provided by the Marshall Center and its contractors. In addition, the Marshall Center team provided the airlock module, the multiple docking adapter, the Apollo telescope mount, the payload shroud, and many of the experiments aboard Skylab.

In the past the Marshall Center has been identified most often as NASA's launch vehicle development center. The Skylab program reflects the Marshall Center's new image. Today, Marshall's role in this Nation's space program can no longer be described by a single predominant launch vehicle project, such as Saturn. Instead, the center has become a multiproject management and engineering establishment, with a great deal more emphasis on science.

The Marshall Center has a total strength of about 5,000 civil service personnel, with a high percentage of scientists, engineers, skilled management people, and specialized technicians.

The dedication of these people to their tasks was overwhelmingly apparent last spring at the beginning of the Skylab program, when hundreds of employees worked around the clock day after day to help salvage the crippled Skylab during the first few days after the initial launch. The thermal and power problems caused by the loss of a meteoroid shield and solar panel during launch of the Saturn V were solved, and the performance of first and second crews to occupy Skylab far exceeded expectations.

Skylab accurately represents Marshall's new image of diversification, especially in the areas of scientific research. For example, the final Skylab mission will give man for the first time an opportunity to observe a comet from above earth's atmosphere.

The Comet Kohoutek has entered our solar system, and will reach its perihelion December 29. The Marshall Center has lead center responsibility for what might be called "Operation Kohoutek." The entire operation will involve ground observations, balloons, sounding rockets, aircraft, unmanned satellites and probes, with Marshall directing the Skylab portion. The eight telescopes and other instruments of the Apollo telescope mount, developed at the Marshall Center, will give the next Skylab crew wonderful tools for observing the comet's appearance.

Much information with direct benefits for mankind will continue to pour in to scientists throughout the final portion of the Skylab program. However, the total bulk of data that will be collected from the entire Skylab program will take months and, perhaps, even years to study.

Along with other valuable Earth resources experiments, the studies of the various aspects of the growing, harvest, and winter seasons will continue on the final Skylab mission. NASA, however, is not attempting to gather earth resources information from Skylab on a current real-time operational basis. Instead, the objective of Skylab's earth resources program is to test the feasibility of using remote sensing satellites for future work in studying the Earth's natural resources, and to study the usefulness of man in such a system.

In the area of solar astronomy, Skylab is also providing scientists with new and valuable information. For instance, we are learning more about the sun's corona, the hazy atmosphere which surrounds the Sun and bathes the Earth in the Sun's heat. New knowledge is also being gained about the 11-year sunspot cycles of the Sun.

Through studies of the Sun's large, hot volumes of gases, studies that would be impossible in an Earth laboratory, scientists are learning new information concerning plasma physics. This new knowledge of plasma physics is needed for building fusion reactors on Earth, the powerplants of the future.

Looking into the future, beyond the Skylab program, the Marshall Center has a strong role in the space shuttle program. The space shuttle will ferry men and equipment between Earth and low Earth orbit. One of Marshall's major contributions to the Shuttle program will be the development of the shuttle's main engines, which will be the first reuseable rocket engines ever built.

Personnel at the Marshall Center are also developing payloads for the shuttle.

Among the shuttle payloads that Marshall will be responsible for is the spacelab, formerly called sortie lab. The spacelab will be a cooperative venture between NASA and the European Space Research Organization and will provide a shirt-sleeve environment for up to four nonastronaut scientific experiments.

The Marshall Center is also the lead project management center for the large space telescope, another space shuttle payload. The large space telescope will be able to look at galaxies 100 times fainter than those seen by the most powerful ground-based optical telescope. Within the solar system, it will be able to provide long-term monitoring of atmospheric phenomena on Venus, Mars, Jupiter, and Saturn.

Personnel now at the Marshall Center have made outstanding contributions to the exploration of space since the launch of Explorer 1, on January 31, 1958, by a Jupiter C missile. The space age is now turning the corner from an era of exploration to one of exploitation—the use of space technology for the benefit of mankind. Just as the Marshall Center helped to meet the challenge of space exploration, it will help to reap the promises of its beneficial applications.

THE ARENA STAGE

Mr. PELL. Mr. President, the Arena Stage Co., located here in our Nation's Capital, has recently concluded a successful tour in the Soviet Union.

Two distinguished American plays, "Our Town" and "Inherit the Wind," were shown to audiences in Leningrad and Moscow. American musical productions have been presented to audiences in the Soviet Union in the past, but this is the first time—and an historic first time—that they have seen such classic American drama, works which so well relate to our own American scene and to universal values and aspirations.

Reports indicate that the Arena Stage productions were most enthusiastically received, and that the company was welcomed with high esteem.

As chairman of the Senate Special Subcommittee on Arts and Humanities, and as a former officer of the Department of State, I am delighted that the Department's Office of Cultural Pres-

entations has taken the important initiative in sponsoring these plays. And I wish to commend all those responsible for the example they have set in advancing international relations and understanding.

Zelda Fichandler, the producing director of Arena Stage, is to be particularly commended for her talented leadership and for so helping to bring this international cultural event to a happy conclusion.

SAVINGS ON GASOLINE BY ELIMINATING FORCED BUSING OF SCHOOLCHILDREN

Mr. ALLEN. Mr. President, our people are face to face with the prospect of gasoline rationing. I am confident that the average citizen is willing to assume inconveniences and even hardships if necessity compels us to such drastic action. However, it will be a mistake to discount the commonsense of reasoning which governs their reactions to crises of this nature. They are going to insist that rationing of gasoline or other fuels must conform to standards of basic fairness and reasonableness.

Mr. President, fairness and reasonableness demand that gasoline supplies be conserved by the elimination of wasteful and unnecessary consumption. Each of us can identify separate prime targets of unnecessary consumption. However, no example of waste in the consumption of gasoline is more blatant than the artificial demand resulting from arbitrary, unreasonable, and irrational forced busing plans for racial balance which have been imposed by Federal court judges. This waste must stop.

Mr. President, in Alabama the annual consumption of gasoline for operating schoolbuses has increased tremendously in the last 5 years.

Mr. President, much of this increase is attributable to decrees of U.S. District Court judges based on what I am convinced is a mistaken conception of constitutional requirements. For example, some Alabama city school systems have been ordered to bus children for the sole purpose of achieving an arbitrary racial mix in the schools, even though such city school systems had never before operated buses to transport children.

To contend that the U.S. Constitution requires school systems to purchase buses, employ and train bus drivers, establish maintenance shops, and assume the cost of operating, maintenance and obsolescence of busing equipment for no other purpose than to achieve and maintain a racial ratio in public schools is a palpable absurdity. The American people will not buy it.

At a time when the American people are called upon to tighten their belts to make sacrifices in the interest of conserving energy resources, it is incomprehensible that Federal judges should persist in pursuing a course which can lead only to massive discontent, and increased hostility to the judicial oligarchy which has assumed power over the lives of the citizens to order busing of their children in accordance with revealed truth of a bankrupt social science.

Mr. President, commonsense and reasoning must prevail over the judicial oligarchy. Nothing would be more reasonable and rational than to restore the law of the Constitution which protects the right of every school child to attend the school closest to his place of residence, without regard to race, creed, color or national origin. The American people are not going to tolerate busing plans which deny children their inherent right to attend a neighborhood school. They will not tolerate judicial edicts that require children to be forcibly and needlessly transported to a school across town at the cost of millions of gallons of gasoline.

THE WATERGATE MAZE

Mr. HART. Mr. President, I think it not inaccurate to say that we are engaged in a national debate on selecting a path out of the Watergate maze.

At least four paths are available. The President can attempt to ride out the storm. The President can lift the cloud of public distrust by disclosing all his administration knows about Watergate and its many related events. The President can resign. And the Congress can go ahead with impeachment proceedings.

In the physical world, a maze offering a choice of just four paths would not be considered particularly difficult. The Watergate maze, of course, is political, which vastly complicates the choices and the debate. In a political maze, the choice is not among one correct and a host of incorrect paths, but to decide which would be the better path. Further, the wisdom of the choice depends not only on the path chosen, but how you proceed down that path.

For example, a bitter resignation might be more divisive than a fair impeachment and trial, but a highly partisan impeachment on questionable grounds would strain the system more than a graceful resignation.

Beyond those complications, of course, is the fact that in this particular maze, each of the possible paths is not open to each of the players. Only the President can resign. Only Congress can impeach.

The question for Congress, then, is not which path, but whether it should pursue the one path open to it. Also, remembering that the way we proceed is as important as the decision to proceed, Congress must be careful that proper grounds for impeachment are widely understood.

Any discussion of grounds for impeachment must start with the Constitution and be based on history.

In the Constitution, the power to impeach is limited by the language "treason, bribery, or other high crimes and misdemeanors." The nature of the first two offenses are relatively clear, but serious debates have ensued over the meaning of "high crimes and misdemeanors."

One extreme position is that an impeachable offense is whatever Congress considers it to be.

Congressman GERALD FORD took this position in 1970 in urging the impeachment of Supreme Court Justice William O. Douglas, but he was not the first.

A similar view was propounded by Senator Giles of Virginia during the impeachment of Justice Samuel Chase in 1803:

> The power of impeachment was given without limitation to the House of Representatives; and the power of trying impeachments was given equally without limitation to the Senate. . . . A trial and removal of a judge upon impeachment need not imply any criminality or corruption in him . . . (but) nothing more than a declaration of Congress to this effect: You hold dangerous opinions, and if you are suffered to carry them into effect, you will work the destruction of the nation. We want your offices, for the purpose of giving them to men who will fill them better. (J. Q. Adams, *Memoirs* (Philadelphia: 1874) 322.)

If such narrow partisan motives could form the basis for impeachment, impeachment proceedings could degenerate into partisan debates and disputes over policy. The history of English impeachments is replete with such uses of the power. Therefore, this view must be avoided. As deTocqueville observed in 1835:

> A decline of public morals in the United States will probably be marked by the abuse of power of impeachment as a means of crushing political adversaries, ejecting them from office.

A position at the other end of the spectrum holds that "high crimes and misdemeanors" refer only to the commission of indictable offenses.

This view has also received historical support. Justice Chase's defenders took this stance:

> . . . no judge can be impeached and removed from office for any act of offense for which he could not be indicted. It must be by law an indictable offense . . . (Joseph Hopkinson, XI *American State Trials*, 272)
>
> . . . The offense for which a judge is liable to impeachment must not only be a crime or misdemeanor but a high crime or misdemeanor. (Luther Martin, Samuel Butler and George Keatinge: *Report of the Trial of the Hon. Samuel Chase,* Baltimore (1805) App., p. 176.)

In the only Presidential impeachment proceeding, of Andrew Johnson in 1867, the identical defense was adopted by Justice Curtis:

> My first position is, that when the Constitution speaks of "treason, bribery and other high crimes and misdemeanors" it refers to, and includes only, high criminal offenses against the United States, made so by some law of the United States existing when the acts complained of were done, and I say that this is plainly to be inferred from each and every provision of the Constitution on the subject of impeachment. (Trial of Andrew Johnson, President of the United States, on Impeachment, Washington, 1868, pp. 88, 147.)

Although this interpretation has some logical appeal and some historical support, it is too narrow when measured against what these terms relating to impeachment meant at the time the Constitution was written.

Study reveals neither extreme is correct. On the one hand it is clear that the phrase covers more than criminal activity; on the other that the phrase is not the Kafkaesque standard Congressman

FORD implied, but a technical legal phrase with specific historical content and therefore discernible guiding standards.

The Founding Fathers intended quite clearly to place some limit on the impeachment power. During the debate over the Constitution, the standard for impeachment originally was "malpractice or neglect of duty." The Committee of Detail proposed as an alternative, "Treason, or bribery or corruption," which was further reduced by the Committee of Eleven to "treason or bribery." On the floor of the Convention, this term was considered to be too limited, and Mason proposed "maladministration" as an additional ground. Madison felt that "so vague a term—as maladministration—will be equivalent to a tenure during the pleasure of the Senate." The Convention then adopted the traditional phrase of "high crimes and misdemeanors."

Important for our understanding of the purpose of the writers of the Constitution, we should be aware that the term "high crimes and misdemeanors" had a very specialized meaning in this period. It was used only in impeachment proceedings and had been in use for four centuries in England at the time of the Constitutional Convention. It was well understood by the framers of our Constitution to mean, as has been paraphrased by a contemporary scholar, Raoul Berger, that impeachment should lie "for a category of political crimes against the state for persons whose elevated station places them above the reach of complaint from private individuals." Berger categorizes the customary charges under English law as "misapplication of funds, abuse of political power, neglect of duty, encroachment on or contempt of Parliament's prerogative, corruption or betrayal of trust."

For example, in 1388, the Earl of Suffolk was charged with procuring offices for unfit and unworthy persons, and delaying justice by stopping writs of appeal. In 1621, Attorney General Ylverton was brought to task for commencing but not prosecuting suits; Chief Justice Scroggs in 1680 was impeached for discharging a grand jury before they made their presentments.

All were brought under the phrase "high crimes and misdemeanors." None of these were indictable offenses or crimes or misdemeanors. In fact, when the term was first used, "misdemeanor" did not mean crime as developed later in the common law. The phrase was thus restricted, and clearly, to political abuses of office.

During the various debates on these phrases, and in ratification conventions in the States, the Framers defined their understanding of the grounds for impeachment of the Chief Magistrate, or President.

Alexander Hamilton wrote in Federalist Paper No. 65:

> The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or in other words, from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.

James Madison demonstrated the need for impeachment by giving a number of examples of what he considered impeachable offenses:

> It is indispensable that some provision should be made for defending the community against the incapacity, negligence or perfidy of the Chief Magistrate . . . He might lose his capacity after his appointment. He might pervert his administration into a scheme of peculation or oppression. He might betray his trust to foreign powers. (*Ferrand*)

> If the President be connected, in any suspicious manner with any person, and there be grounds to believe that he will shelter him, he may be impeached. (J. Elliott, Debates in the Several State Conventions on Adoption of the Constitution (2d Ed. 1835) at 498.)

Madison also pointed out that the President should be held responsible for firing good men as well as for protecting bad men:

> Perhaps the greatest danger . . . of abuse in the executive power lies in the improper continuance of bad men in office. But . . . if an unworthy man be continued in office by an unworthy President, the House of Representatives can impeach him and the Senate can remove him whether the President chooses or not. The danger then consists merely in this: The President can displace from office a man whose merits require that he should continue in it. What will be the motives which the President can put for such abuse of his power, and the restraints that operate to prevent it? In the first place, he will be impeachment by the House before the Senate for such an act of maladministration; for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust. (4 Elliott's Debates 373)

Some Founding Fathers also concluded that a President could be impeached for gross negligence in the appointment and supervision of his staff. In the first Congress after the Constitution was drafted, Madison stated during a debate on the President's power to remove his appointees from office without Senate consent:

> . . . it may, perhaps, on some occasion, be found necessary to impeach the President himself; surely, therefore, it may happen to a subordinate officer, whose bad actions may be connived at or overlooked by the President . . .

> I think it absolutely necessary that the President should have the power of removing from office; it will make him, in a peculiar manner, responsible for their conduct, and subject him to impeachment himself, if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States, or neglects to superintend their conduct, so as to check their excesses. On the Constitutionality of the declaration I have no manner of doubt.

> (House Committee on the Judiciary, 93rd Congress, 1st Session, Impeachment: Selected Materials 10–11 (Comm. Print 1973)).

Of course, none of these bases of impeachment was to be invoked lightly. Certainly, any President will make mistakes of judgment about some of the many individuals he appoints. The question of impeachment would arise only where the misconduct of the President's staff and appointees is so pervasive and persistent that one is justified in concluding that the pattern of misconduct is either condoned by the President himself or demonstrates gross negligence in the appointment and supervision of his staff.

The Founding Fathers indicated in other ways that they felt the impeachment process was not a criminal one.

They granted the sole power of impeachment to the Congress, which naturally precluded a trial by jury. Yet the sixth amendment in the Bill of Rights guarantees the right of trial by jury "in all criminal prosecutions." They unequivocally described the impeachment as remedial, not punitive, by stating:

> Judgment in cases of Impeachment shall not extend further than to remove from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States. (U.S. Const. Article II, Section 3.)

They further separated the impeachment proceeding from the criminal law by adding that:

> The Party convicted (of impeachment) shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to law. (U.S. Const., Article I, Section 3)

This history indicates that, rather than referring to crimes as we might define them today, the Framers had in mind certain types of offenses, based on grave misconduct, whether civil or criminal in nature. Much more crucial than the categorization of "civil" or "criminal" is the gravity and nature of the suspected misdeed.

Standards have changed in the last 200 years. The issue presented at President Andrew Johnson's impeachment was whether a President who refused to obey a law which he considered unconstitutional, but which was passed by Congress over his veto could be impeached. Most constitutional scholars today believe that the remedy for such a difference of opinion would today lie with the judicial branch.

If the familiar boundaries of the criminal statutes are removed as the basis for impeachment proceedings—and the Founding Fathers intended no such boundaries—we are left with a sense of unease about the limits to be placed on such an inquiry. It is paramount that impeachment should not be used for partisan purposes or for resolution of differences in political philosophy. The Framers clearly intended that limits should be placed on offenses which could properly be considered impeachable.

Any definition of such offenses must take into account the seriousness of the offense, the intentions of the Framers, historical precedents, fundamental constitutional standards such as are contained in the Bill of Rights or embodied in the separation of powers, and deeply held ethical concepts of honesty, fairness, and justice.

In deciding whether to consider impeachment proceedings, we should measure the charges raised against the President, members of his administration and of his campaign committee against those standards.

The list of charges include obstruction of justice by failure to report felonies, by

inducing persons to commit perjury, and by concealing, altering, or destroying evidence of alleged misdeeds by members of his administration.

Also, there have been charges concerning favors purchased through campaign contributions, of illegal wiretapping and of using public money for private and personal comfort.

To some, impeachment sounds more drastic than resignation. It is drastic, but it has a worse image than it deserves.

Impeachment, under the Constitution, is a bill of particulars comparable to an indictment. It is prepared after a full investigation by the House.

The Senate then sits in judgment on the charges. Therefore, to call for impeachment is to call for an investigation, looking to determination of the President's innocence or guilt once and for all.

It should be remembered that impeachment can have a purifying effect. A President who is regarded by many as unworthy of belief might recover his position and capability to govern if impeachment led to the finding of "no cause" or "not guilty."

Because resignation offers no similar opportunity, impeachment may indeed be the less drastic of the two. And for that reason, and because of the nature of the charges raised, I believe it is proper for the House of Representatives to continue its impeachment inquiry.

In the end, impeachment may not be necessary or the best path out of the Watergate maze, but Congress should not shrink from its possible use.

To those reluctant to investigate such a step, I offer the words of George Mason who, in defending the impeachment provisions of the Constitution, asked:

> Should any man be above justice? Above all, shall that man be above it, who (as President) can commit the most extensive injustice?

The proper answers are clear.

Further, the impeachment investigation should proceed whether or not Congress establishes an independent special prosecutor.

The office and person of an independent special prosecutor are needed to convince the public that criminal investigations will be conducted fully, fairly and without interference from persons who might be affected by the investigations.

However, such an investigation deals only with criminal offenses, and as I have suggested, there are noncriminal offenses which would be proper grounds for impeachment. And beyond that, the various investigations into Watergate and related activities already have raised enough charges, criminal and noncriminal, to justify continuation of an impeachment inquiry. Such an inquiry is the only form in which the entire range of charges can be considered together and measured against accepted definitions of offenses which justify impeachment.

THE COST OF LIVING COUNCIL AND SMALL CONSTRUCTION COMPANIES

Mr. SPARKMAN. Mr. President, a subject of continuing concern to all of us is the effectiveness of this administration's wage-price restrictions. It is especially important, it seems to me, that the regulations put forth by the Cost of Living Council not only insure a reasonable chance of controlling inflationary growth but that they not jeopardize the existence of small businesses.

A particular problem has been brought to my attention involving a number of small construction companies in Alabama. Because the problem may exist in other States, I am bringing this matter to the attention of all my colleagues here in the Senate.

The Cost of Living Council has issued a number of regulations that deal with incentive compensation plans. These plans or pay practices generally provide for additional compensation to employees above and beyond their basic salaries. Their purpose, in most instances, is to provide an incentive to employees for increased production. If there is one proposition upon which we can all agree, it is that any effort that effectively increases the productivity of American workers should be encouraged whenever and wherever possible. Increased productivity is a long-range tool against inflation and is the rationale for our establishing the National Commission on Productivity. In those instances where the incentive compensation plans are not geared to productivity, but rather are used as an alternative to unearned profit-sharing, then we have, in my judgment, a legitimate interest in controlling their distribution.

The construction industry, still under tight controls, is a highly competitive industry, as we all know. The use of incentive compensation plans seems to be the rule rather than the exception. In the Southern States in general, and Alabama in particular, where I am more familiar with construction activity, incentive pay geared to employee productivity is the backbone of that industry.

The Cost of Living Council has issued regulations controlling the amount of incentive compensation that companies can pay to their employees. The regulations, as I understand them, establish what is referred to as a base year amount. Once a base year amount is established for a company, then that company can increase the amount in their incentive compensation plan only by the 5.5 percent standard that applies to every other company. The problem, as it has been described to me, is that the base year amount for older, more established companies is set as a rule at the amount paid out in one of the previous 3 years. For example, if company X which has been in business for 20 years has paid out $100,000 in each of the previous 3 years, their base year amount will be $100,000. Next year, company X can increase the amount by 5.5 percent for a total of $105,000.

A new company, by way of contrast, has no previous experience with their plan and a base year amount must be set arbitrarily. In some instances, I am told, the Cost of Living Council has limited the base year amount for these new companies to whatever amounts they were able to pay out in the form of incentive compensation during their first year of operation. Since it is extremely unlikely that any new business can show sufficient profits in their first year of operation to adequately compensate key employees, let alone provide incentive compensation, these new firms will be effectively denied the use of any incentive compensation plan for so long as the economic controls remain on their industry. This approach is bound to work a hardship on these small businesses. In a highly competitive industry, where incentive compensation plans play a major role, these small companies will face hardship if not extinction.

We all want to see an effective curb of inflation. My concern is no less than others in seeing that unearned profits do not reflect themselves in higher and higher prices. Nevertheless, it seems important to me that in an area where pay is directly related to productivity, the Cost of Living Council should do all that it can to encourage productivity increases. Their rulings should show more flexibility, especially in the case of new firms. If the older, more established companies are permitted to enjoy an advantage predicated solely on the fact that they have been in business longer, fewer small companies will be able to continue in existence to compete with them.

I am hopeful that the Council will take a fresh look at this problem and devise a more suitable way to assist new companies in the construction industry. Where productivity is related to incentive compensation, rulings should not favor larger companies over smaller ones.

THE NATIONAL ENERGY EMERGENCY ACT OF 1973

Mr. RIBICOFF. Mr. President, as a cosponsor of S. 2589, the National Energy Emergency Act of 1973, I commend the distinguished chairman of the Interior Committee, Senator JACKSON, for his continued strong leadership in this area. I understand that debate on this measure will begin tomorrow.

Problems associated with energy shortages are not entirely new to people living in New England. For years the residents of Connecticut and other parts of New England have been paying premium prices for No. 2 fuel oil to heat their homes. Independent dealers, who supply 25 percent of all the gasoline and distribute about 75 percent of all the heating oil to Connecticut residents, have for the past year had their own share of problems trying to get a fair share of fuel from the major oil companies.

For almost a year now I have strongly advocated legislation to insure the continued flow of petroleum products to New England at the lowest possible prices to consumers.

In January I cosponsored the New England States Fuel Oil Act to permit unlimited imports of No. 2 home heating oil. Later I sought and received assurance from the administration that its new oil policy committee would establish a special subcommittee to deal with

Connecticut and New England's own particular problems.

In March I joined in introducing Senate Resolution 74, calling on President Nixon to begin negotiations with the other major oil consuming nations leading to bargaining on a government-to-government basis with the oil producing States and not leaving this up to the oil companies.

Had such negotiations started then, the nations of Europe and Japan would probably not be so vulnerable to oil blackmail as they are today.

In May I cosponsored legislation providing for continued sales by major oil companies of gasoline to independent gasoline retailers at the same percentage levels as in a previous base period, and to assure equitable distribution of petroleum products to all regions of the country.

Had this been done, most of the 2,000 independent fuel dealers forced out of business would have been saved.

On June 5 the Senate passed S. 1570, the Emergency Fuel Allocation Act of 1973. This bill included an amendment which I had offered to establish an Office of Emergency Fuel Allocation. The Senate will soon be voting on the conference report of this legislation.

The Senate passed another mandatory fuel allocation bill in an effort to spur the administration into action. But until very recently all we have gotten in the way of an allocation program was an almost incomprehensible system for distributing propane.

Now the administration has finally discovered that we are in an energy crunch. The basic solution offered is that the average citizen tighten his belt. But while individual cooperation in conserving energy is important, is this all that can be done? And can this alone do the job? I think not.

For years American industry burned up more and more energy as a means of increasing productivity. We have even made our automobile engines larger to support poorly engineered antipollution devices. The average American-made automobile today only gets 13.5 miles to the gallon, almost double the gasoline required by its European or Japanese counterpart. Industrial operations in other countries operate with an energy consumption of 10 to 20 percent or less than that required to do the same job as American industry.

This year only 13 percent of the energy used in the United States will be residential, and less than 14 percent used for transportation. Business and industry will account for 45 percent of our total consumption.

While everyone will have to bear his share of the burden, nothing would be more inequitable than putting a substantial tax on gasoline. This threatens to raise havoc with every family budget. There is now much talk about placing a 40 cent Federal tax on every gallon of gasoline. This tax is regressive and would place the burden of cutting back on fuel consumption squarely on the people who can afford it least. It is definitely not an acceptable solution to the current fuel shortages.

If the fuel situation worsens, we might have to give serious thought to gasoline rationing. But this way everyone gets a fair share according to need—not according to ability to pay. I will oppose any move by the administration to push an exorbitant gasoline tax hike through the Congress. We must be extremely watchful as the so-called energy crisis develops, to prevent any measures that spell hardship for people of modest means. Basic fairness is one principle we must certainly honor at a time when so many of our values are being challenged.

The most outstanding feature of our Nation's energy consumption pattern today is our growing reliance on oil.

I have pointed out before that since World War II, the United States has become hooked on oil—with oil companies acting as pushers. Today roughly 45 percent of the energy consumed in this country comes from oil, another 32 percent comes from natural gas, which is largely a byproduct of oil production. Of the remainder, 18 percent is from coal, 4 percent from hydroelectric power, and only 0.5 percent from nuclear plants.

Now, because of our growing dependence on foreign source oil, we are competing directly for this oil with Europe and Japan. This competition has raised serious questions about the value of the American dollar, its impact on our national security, and the role of the United States as a world power. It is clear we must begin confronting these dilemmas without delay.

The bill before us today, S. 2589, sets out a program of action that is needed to meet the problems we face right now. It is specific and it has teeth. This bill's declaration of an energy emergency is backed up by a series of practical, effective proposals. They include programs calling for rationing and conservation, providing clear priorities, describing methods of decreasing energy consumption and insisting upon timely contingency plans.

The purposes of the National Energy Emergency Act are set out as follows:

Declare by act of Congress an energy emergency;

Grant to the President of the United States, and direct him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products, and other fuels, or dislocations in their national distribution system;

Provide a national program to conserve scarce energy resources, through mandatory and voluntary rationing and conservation measures, implemented by Federal, State and local governments;

Protect the public health, safety, and welfare and the national security, and to assure the continuation of vital public services and maximum employment in the face of critical energy shortages;

Minimize the adverse effects of such shortages or dislocations on the economy and industrial capacity of the Nation;

Insure that measures taken to meet existing emergencies are consistent, as nearly as possible, with existing national commitments to protect and improve the environment in which we live; and

Direct the President and State and local governments to develop contingency plans which shall have the practical capability for reducing energy consumption by no less than 10 percent within 10 days and by no less than 25 percent within four weeks of any interruption of normal supply.

This legislation surely points the way to easing this country out of the current energy crunch. As the distinguished Senator from Washington has recently pointed out:

> This measure is not, of course, a substitute for proceeding as soon as possible on pending measures to establish a national energy conservation policy, to build the trans-Alaska pipeline, to undertake a massive energy research and development program, to equitably allocate available fuels to priority users, and to develop a system of national strategic reserves. S. 2589 is an emergency measure which recognizes and urges the executive agencies to take specific steps to deal with this situation.

A recent Treasury Department study outlined eight emergency conservation measures that would save 2 million barrels of oil a day. This figure represents 12 percent of present U.S. consumption. These are the measures outlined:

Reducing speed limits to 50 miles per hour for passenger cars—150,000 barrels a day would be saved;

Increasing load factors on commercial aircraft from 50 percent to 70 percent by consolidating and reducing flights—80,000 barrels a day saved;

Setting home thermostats two degrees lower than average—50,000 barrels a day saved;

Conservation measures in industry—50,000 barrels a day saved;

Limiting hot water laundering of clothes—300,000 barrels a day saved;

Mandatory car tune-ups every 6 months—200,000 barrels a day saved;

Conservation measures in commercial buildings—200,000 barrels a day saved;

Increasing car pools for job commuting—from 1.3 average to 2.3 average per car—200,000 barrels a day saved.

If by measures such as these we can keep the Nation's growth rate of energy consumption to around 3 percent instead of the current 4½ percent annual increase, we can begin to escape from the energy crunch.

In addition to this legislation, which is primarily designed to meet current shortages, we must look to the next decade. In doing so we should not feel helpless or inadequate. The United States has immense natural resources and technological skills at its disposal.

For example:

The United States has an estimated 385 billion barrels of oil that are not yet part of proven reserves or presently re-

coverable. The amount is almost equal to all the oil discovered in the country up to 1971.

The country has 1.8 trillion potential barrels of crude shale oil in oil shale deposits in the Western States.

The United States has 1,178 trillion cubic feet of ultimately discoverable natural gas in its overall energy resource base—a little less than double all the natural gas discovered until 1971.

The U.S. Geological Survey estimates the Nation's total coal resources at 3.2 trillion tons, with 150 billion tons presently recoverable, enough for almost 200 years.

The United States has 1.6 million tons of mineable uranium, 700,000 tons mineable at costs low enough to assure cumulative requirements through 1985.

The problem is that a good part of the above sources are not readily available now. The long-term solution lies in realizing the potential of these abundant resources—a challenge that is welcome to all of us who believe in this country.

Prompt action on another initiative by Senator Jackson, S. 1283, of which I am also a cosponsor, can point the way out of our dilemma. This bill calls for American self-sufficiency in energy in 10 years. By wisely funding research and development programs, we can begin to take advantage of the abundance of our resources. S. 1283 proposes the creation of five quasi-public development corporations to demonstrate energy technologies for shale oil, coal gasification, advanced power cycle development and coal liquefaction. These are the keys to solving our Nation's energy problems.

It should be emphasized. however, that before we start creating new Federal and State bureaucracies, and demanding new sacrifices from the American people, we have to know where we are going. We need a comprehensive energy policy. Then we can decide how much we are willing to spend to get there and how to proceed.

We have yet to come to grips with the built-in conflict between greater self-sufficiency in energy and preservation of the environment. The burning of higher surphur content coal, the development of off-shore soil, the building of deep water ports all raise serious environmental problems.

The realistic solution is to develop technology that can preserve and protect our environment while permitting steady progress toward energy self-sufficiency.

Such a program will truly be a monumental undertaking. It will be difficult from a technical standpoint and complicated in terms of the mix of private and public effort. It is a formidable task—even more imposing perhaps than the Manhattan or Apollo projects. But we must strive to succeed.

I am convinced that with realistic conservation measures, expanded use of coal, orderly development of nuclear power, and creation of a strategic oil reserve, our Nation can achieve both minimal dependence on overseas supplies, acceptable rises in energy costs, and greater efficiency in production.

How we organize ourselves to maximize our still plentiful natural resources against a backdrop of growing scarcity of oil and gas resources will be one of the most crucial problems our Nation will face in the next decade.

What we do in the next few weeks and months might well determine this Nation's rate of economic growth, the physical well-being of all of its citizens, and our future foreign policy direction.

If we are to avoid the nightmare of a permanent crisis, it will be up to the administration and the Congress to make the right decisions now—and it will be up to industry, labor, and the American people to plan and work together for the benefit of all the people of our country.

SURVEY OF CONSTRUCTION NEEDS OF PUBLIC SCHOOLS EDUCATING RESERVATION INDIAN CHILDREN

Mr. FANNIN. Mr. President, the Bureau of Indian Affairs commissioned the National Indian Training and Research Center of Tempe, Ariz., to survey the construction needs of those public schools serving reservation Indian children. This request for a survey came originally from the House Interior Appropriations Subcommittee after it had been besieged by numerous schools for line item appropriations to meet their construction projects. These requests occurred because appropriations for Public Law 815 had been inadequate to meet the needs of those schools which were eligible for support under Public Law 815. The House Committee, however, realized that meeting construction needs through special budget appropriations was a poor approach and thus asked the BIA to survey current needs and assess whether Public Law 815 was the proper vehicle for meeting the needs of reservation Indian children.

The report by the National Indian Training and Research Center has been completed and I have just received a copy. For the information of my colleagues I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT—PUBLIC SCHOOL SURVEY OF CONSTRUCTION AID NEEDS RELATED TO THE EDUCATION OF RESERVATION INDIAN CHILDREN

SYNOPSIS OF SURVEY REPORT

1. This survey results from the interest of a House Appropriation Sub-Committee in the acute need for adequate school facilities for reservation Indian children enrolled in public school districts.

2. The record shows a severe backlog of urgently needed construction aid requests under P.L. 81–815, exists.

3. Based on the cooperative and enthusiastic support given NITRC by public school, state and BIA personnel, it is believed that the study covers all eligible districts in need of construction aid. One hundred sixty-two (162) districts in 21 states responded to the survey questionnaires.

4. Enrollment of Indian children in the 162 districts increased by 16,811 students within the last 5 years. The school superintendents estimate that there will be an additional 19,428 Indian students to educate in these same districts within the next 5 years.

5. The immunity of Indian reservation lands from taxation is truly an important factor in the ability of school districts to finance needed facilities.

6. Based on the widely accepted ability measure, the amount of taxable evaluation behind each child, Indian related school districts are much "poorer" in comparison with similar type districts in the state where the district is located.

7. Unused bonding capacity is a vital factor in the ability of most school districts to share in the cost of constructing facilities related to the education of reservation based Indian children. The amount of unused bonding capacity that can be considered *realistically* as an available local resource in computing the construction aid needs of otherwise eligible districts, *is probably the most controversial item in the entire study.*

8. The public school districts in the State of Nevada differ in many ways from the districts in other states and should be considered on an attendance unit basis in comparison with other districts in other states.

9. The justifications for needed facilities are based on three (3) principal factors; (1) rapid increases in the enrollment of Indian children; (2) replacement of temporary, unsafe and inadequate structures; and (3) housing for new and innovative programs for Indian students.

Forty (40) of the 119 high school districts specifically identified housing for new or expanded vocational shops as a major district need. Sixteen (16) districts reported they could enroll a total of *1,637* Federal boarding school students if their construction aid requests were funded.

NITRC personnel visited all major Indian impact districts (those enrolling 50% or more Indian children). Needs and justifications were verified.

Typical of the narrative justifications submitted, is the summary of one quoted the Bark-Harris District, Harris, Michigan. This minor impact district (approximately 10% Indian students) is already bonded to the legal limit allowed by the State.

"At present we have one small gym for physical education classes for the entire school district K–12 (769 students). The gym is occupied every hour of the school day. We are unable to provide the required physical and health classes because of the limited space.

We need additional classroom space to expand our curriculum courses on Indian Culture, Handicraft, Indian Language and other courses of interest to all students.

We need office space for our counselors. (Indian and School office space for our consultants in remedial reading and special education, space for our community director, and conference rooms).

By having the additional facilities we would be able to provide for courses and other activities that Indians would become interested, also would participate in community functions".

10. The rationale for a "liberal" interpretation of what constitute minimum facilities to meet needs is reflected well in the Twentieth Annual Report of the Commissioner of Education pertaining to the Administration of Public Laws 81–874 and 81–815.

11. The survey shows that the urgency for construction aid is *now.*

12. In answer to the question, "If, P.L. 815, as presently operated, was adequately funded, do you believe your needed funds could be secured under this Federal aid program?" The responses were:

67—*Yes,* representing $141,266,215 or 72% of computed need total.

95—*No,* representing $45,453,340 or 28% of computed need total.

No responses resulted from: (1) some districts apparently not aware of recent "liberalization" of what constitutes "minimum school facilities" under P.L. 815 (2) some districts are so low on P.L. 815 priority scales that requests are futile; (3) some districts fail to meet percentage requirements, and (4) some districts are confused with the lack of uniformity between the U.S. Office of Education and the BIA in counting Indian children for program eligibility purposes.

A majority of public school superintendents favor a BIA authority to provide construction aid.

13. Summaries of the grand total of needs is shown in the following table:

Total cost estimate of the 162 reporting districts for all needed facilities is	$237,962,723
Total cost using all available local resources (principally unused bonding capacity)	163,949,044
Total cost using one-half of the unused bonding capacity as a resource	190,764,745

14. Seventy-five (75%) percent of the cost estimates submitted by the districts are considered to be valid.

15. Tribally operated schools under BIA contracts were not considered as a part of the public school survey except for one Indian high school which expects to become a public high school within five (5) years.

17. Our priority measurement was adapted from the method used by P.O. 815 and the district priorities range from 200 (the highest index) to 1 the lowest.

18. The recommendations include a suggested policy guide for the BIA; namely.

1. That, the Bureau of Indian Affairs, in its contact relationships with the higher echelons of the Administration and the Committees of Congress, recommend that the present program under P.L. 815, as amended, be continued as the most logical way to meet the acute construction aid needs of Indian and other Federally impacted public school districts with the important modification that the allocation of funds to Section 14 be increased to 50% of all available funds.

2. That, the Bureau of Indian Affairs seek legislative authority to construct elementary school facilities for the public schools with large Native impacts in the State of Alaska without impairment of the right of such schools to seek funds under P.L. 815, as amended; and

3. That, the Bureau of Indian Affairs seek broad legislative authority to provide grants to Indian impacted public schools for the construction of needed facilities in the event that P.L. 815 is not funded to a sufficient level to meet the acute backlog of needs identified in this study.

It is recommended that the amount of any grant to any individual district should be determined only after a sound engineering survey of needs and costs, and after consideration of the extent that local potentially available resources can be considered realistically in determining the local share of a total project.

INTRODUCTION

Federal interest and participation in the many facets of Indian affairs is apparent in the laws and programs affecting various agencies of the Federal Government. This survey and study results from the manifested interest of a House Appropriation Sub-Committee in the public school construction aid needs related to the education of reservation based Indian children. The Bureau of Indian Affairs was authorized to contract for the survey. The National Indian Training and Research Center (NITRC, a private Indian corporation) was awarded the contract on January 2, 1973.

Construction of needed facilities has not kept pace with the growing school enrollments in federally affected areas. A brief review of Federal construction aid to public schools reveals the pattern. Based on the 1970 U.S.O.E. Twentieth Annual Report of the Administrator of Public Laws 874 and 815, a total of $1,174,279,642 has been reserved or provided public school districts in Federally impacted areas. Of this total $61,741,107 has been reserved or provided under Section 14 which principally serves districts educating Indian children.

As late as 1970, reports of the U.S.O.E. showed 53 project applications on file under Section 14 of P.L. 815 with an estimated entitlement of $38,469,719 and only $1,504,865 allocated to meet this need. Many other districts report that they have not filed P.L. 815 applications because of the apparent futility. The construction aid needs have been compounded since 1970.

Intermittently, the Congress has provided construction aid funds to public school districts through the BIA construction budget (without formal Congressional authorization). This reached a climax (money wise) in the F.Y. budgets of 1972 and 1973 when $4,311,500 was designated for five (5) projects in the three states of Montana, North Dakota and South Dakota.

Referring apparently to this process, an appropriation subcommittee reports:

"Occasionally, the committee has approved funding for a few of these schools where the situation appeared to be critical. However, the problem has intensified each year and has now reached the point where the committees can no longer provide funds for construction of these schools in a hit-and-miss manner without increasing the appropriation far beyond all totals envisioned by those responsible for budgeting proposals."

OBJECTIVES OF THE STUDY

(1) To survey the construction aid needs in the school districts of the 23 states that participate in the Johnson-O'Malley Act program and to analyze and interpret the data with help of the computer. It is a further objective to evaluate additional breakdowns of closely related and concomitant information pertaining to enrollment growth, Indian impacts, resources ability factors and a priority basis to follow.

(2) To develop general policy and guidelines to be used by the Bureau of Indian Affairs in connection with the funding of public school construction in areas of high Indian enrollment. The guides are to establish a feasible methodology for meeting backlogs (on a priority basis) which along with the regularized program will provide a total federal policy to improve Federal interaction with Indian impacted public school districts.

DESIGN FOR THE SURVEY

A study of the Directory of Public Schools served by JOM funds reveals another basic category to better identify Indian impacted districts. Some 40 districts have over 33% Indian impact, many approaching 50%. Many of these are known to be "poor" districts. Hence, it was proposed to identify the districts in the following manner:

Major Impact—with 50% or more Indian enrollment.

Heavy Impact—with 33% to 50% impact.

Minor Impact—under 33% impact.

Unusual Impacts———.

Unusual district situations were to be identified in a special category. These are county-wide districts with major Indian impacts in certain attendance centers and districts that educate out-of-district Indian children. These and any others are to be analyzed as separate unusual situations.

THE WORKING PLAN

The working plan was to develop carefully devised survey questionnaires.* They were developed for easy completion by local school superintendents and for coordination with essential information required in P.L. 815 applications. They were designed also for equating priority schedules. The data collected was to be computerized for the development of various tallies reflecting Indian impact (based on enrollment data and growth rates), effort and ability to finance needed construction needs with full justifications. The questionnaires were designed to also solicit policy recommendations of both state and school district personnel. A separate report was requested from states and district personnel concerning eligible districts that do *not* request construction aid and *why*.

The plan called for the closest possible cooperation with State departments of education and BIA area personnel in arranging initial contacts. All levels of Indian education were to be utilized. Follow-through and follow-ups were to be made to all major impact districts by NITRC personnel.

In support of the methodology the Government through the U.S. Office of Education has granted (through 1970) $1,174,279,642 under P.L. 815, as amended, through essentially the same method herein proposed to determine school construction needs.

SURVEY CONTACTS

Some 458 school districts were contacted in 23 States. These districts were identified by the FY 1973 bulletin *Directory of Public Schools served by Johnson-O'Malley funds.* All states with Indian education personnel in the State Departments of Education were contacted and the survey forms were provided to the districts through their own State Department of Education. Districts in states without liaison personnel at the state level were initially contacted through BIA personnel. Follow-up contacts were made by letters and telephone and on-site visits (to major impact districts) by NITRC personnel.

RESPONDING DISTRICTS

One hundred sixty-two (162) public school districts in 21 states responded to the questionnaires. The districts in Florida and Mississippi did not respond (probably because of the relatively few Indian children in their schools). The two JOM participating districts in Colorado responded, but reported *no* construction aid needs. *Thus 162 in 20 states responded and reported construction aid needs.*

Eighty-six (86) districts in 17 states reported no needs.

Some districts operate coterminous but legally separate elementary and high school districts. Most of these reported as one district instead of two; hence they are reflected in the survey data as only one district.

Six (6) school districts (2 in Minnesota and 4 in New Mexico) responded to the questionnaires too late to be included in computer breakdowns of related data. However, essential information pertaining to these districts is shown only in the latter part of the report. This increases the total number of districts (showing need) from *162 to 168.*

From conversations with state education personnel it can be assumed that the dis-

* See Appendix for a copy of the questionnaire.

tricts which failed to report have little or no construction aid needs related to the education of reservation Indian children.

TYPE OF DISTRICTS RESPONDING

Most districts reporting needs (or a total of 114) have kindergarten through high school programs. Forty-three (43) districts teach only the elementary grades and five (5) districts have only high school programs. All elementary districts also have kindergarten programs with the exception of six (6) districts. One of these (Whiteriver, Arizona) had to abandon the kindergarten program because of the lack of facilities to house the youngsters. The table that follows shows grades taught in the three basic district types: (1) elementary, (2) bigh school, and (3) joint elementary and high school.

Type of grades taught	Number
Kindergarten, elementary, and high school	114
Kindergarten, elementary	43
Elementary	6
High school	5
Total	162

INDIAN IMPACT

State	Major	Heavy	Minor	Unusual	Total	State	Major	Heavy	Minor	Unusual	Total
Alaska	8	1	2	0	11	New Mexico	5	0	0	0	5
Arizona	12	0	4	0	16	North Dakota	2	0	2	0	4
California	0	1	5	0	6	Oklahoma	13	11	11	0	35
Idaho	0	0	1	0	1	Oregon	0	0	2	0	2
Iowa	0	0	1	0	1	South Dakota	3	2	5	1	11
Kansas	0	1	1	0	2	Utah	0	1	0	0	1
Michigan	0	0	4	0	4	Washington	5	0	14	2	21
Minnesota	2	0	1	0	3	Wisconsin	0	0	4	0	4
Montana	13	1	5	1	20	Wyoming	3	0	1	0	4
Nebraska	2	0	1	0	3						
Nevada	0	0	0	8	8	Total	68	18	64	12	162

Note: The table reflects the number and category of Indian Impact by States in the 162 reporting districts.

GROWTH IN SCHOOL ENROLLMENT

The enrollment in the public schools (162 districts) educating reservation based Indian children has increased the past 5 years, a total of 23,502 students. Based on the number of children, Arizona and New Mexico show phenomenal increases in Indian students. The table below reflects both the number and the percentage of increase in the total school enrollment along with the Indian increase in the same districts. The table is ranked from the highest percentage of total school enrollment to the lowest by states.

PAST 5-YEAR GROWTH RATES

State	Total district growth (number)	5-year growth (percent)	Total Indian growth (number)	5-year growth (percent)	State	Total district growth (number)	5-year growth (percent)	Total Indian growth (number)	5-year growth (percent)
Arizona	10,562	56	4,330	47	Nebraska	49	6	0	0
New Mexico	4,358	24	6,807	86	Oklahoma	758	6	1,667	57
Alaska	848	19	452	22	Washington	2,342	6	442	15
South Dakota	1,443	17	930	30	Kansas	32	3	110	94
Utah	396	17	637	101	Montana	295	2	0	0
California	681	16	130	22	Oregon	171	2	12	2
North Dakota	268	15	394	53	Idaho	0	0	30	10
Minnesota	426	14	165	17	Nevada	0	0	398	36
Wisconsin	436	14	114	46	Wyoming	0	0	0	0
Iowa	217	9	22	11					
Michigan	220	7	171	63	Total	23,502		16,811	

The school superintendents estimate there will be an *additional 19,428 Indian students* to educate in these same districts *within the next five (5) years.*

INDIAN LANDS

The land area of districts reporting vary from a few hundred acres to several thousand square miles. Indian reservation lands encompass only a portion of some districts. In others, the district is located entirely within the reservation boundaries. In the table below, districts are grouped in terms of the percent of Indian tax exempt lands that comprise their districts. The extent of other Federal lands known to exist in some districts was not included in the study.

Percent of Indian land within districts	Number of districts
0 to 10	62
11 to 50	56
51 to 89	19
90 to 100	25
Total	162

ABILITY FACTOR—TAXABLE VALUATIONS

Probably the most widely accepted measure of the ability of school districts to finance education operations is the amount of taxable valuation behind each child in the district. To be meaningful this has been computed in terms of the percent of state average taxable valuation behind each child in the particular state where the district is located. Only 24% of the Indian related districts exceed the state average per pupil taxable evaluation. This means that 76% of the reporting districts have computered per pupil taxable evaluations below their particular state average for similar type districts. There is a high relationship between "poor" districts (as measured by per pupil valuations) and their construction aid needs.

The table below shows the number of districts by groups in relation to the percent of state average per pupil valuation.

Percent of State average per pupil valuation	Number of districts
0 to 25	38
26 to 50	39
51 to 75	26
76 to 100	19
Over 100 (that is, exceeds State average)	40
Total	162

AVAILABLE LOCAL RESOURCES

All but eight of the 162 districts in need of construction aid assistance reported some available local resources. Some districts have cash accrual accounts for capital outlay purposes, principally buildings and equipment. Most districts have unused bonding capacities in sufficient amounts as to be practically considered as an available local resource. The extent to which the unused bonding capacity should be considered as a local resource in computing the construction aid needs of otherwise eligible districts is probably the most controversial item in the entire study.

Since unused bonding capacity is a potentially available local resource we have computed the construction aid needs in two ways: (1) by considering all the unused bonding capacity as an available local resource and (2) by considering only one-half of the unused bonding capacity as an available local resource.

This study shows that minor Indian impact districts would be particularly adversely affected if the total unused bonded capacity is considered as an available local resource in computing the amount of Federal participation for otherwise eligible districts. Those districts that already have bonded indebtedness that equals one-half or more of their total bonding capacity allowed by state law, report their inability to pass another bonding program.

The table that follows shows the ratio of unused bonding capacity to the total estimated cost of needed facilities by categories of districts. The ratio is expressed in the percent that total unused bonding capacity bears to total need cost. The table presents the number of districts in each percentage category.

RATIO OF UNUSED BONDING CAPACITY TO ESTIMATED COST OF CONSTRUCTION NEEDS

State	Less than 5 percent	6–25 percent	26–50 percent	51–75 percent	76–100 percent	Over 100 percent	Total
Alaska	2	4	1	1	2	1	11
Arizona	9	5	0	2	0	0	16
California	0	0	0	0	1	5	6
Idaho	0	0	0	1	0	0	1
Iowa	0	0	0	0	1	0	1
Kansas	1	0	1	0	0	0	2
Michigan	1	0	1	0	0	2	4
Minnesota	3	0	0	0	0	0	3
Montana	5	6	4	3	0	2	20
Nebraska	1	0	1	0	0	1	3
Nevada	0	0	1	1	1	5	8
New Mexico	2	1	0	1	1	0	5
North Dakota	2	0	1	1	0	0	4
Oklahoma	5	8	3	10	2	7	35
Oregon	1	0	0	0	0	1	2
South Dakota	0	2	4	2	1	2	11
Utah	0	0	0	1	0	0	1
Washington	1	1	3	2	2	12	21
Wisconsin	0	0	0	0	0	4	4
Wyoming	0	2	0	0	1	1	4
Total	33	29	20	25	12	43	162

NEVADA, AN "UNUSUAL" STATE

In comparison with the 22 other states surveyed, Nevada presents many different factors and situations to equate. Nevada differs from other states in the following ways:

(1) Nevada has county-wide school districts. This distorts comparative percentages with other states especially in counties with nearly all-Indian schools in the remote areas.

(2) Nevada has a $5.00 constitutional tax limitation for all purposes. Thus taxing for schools must compete with all other state and local taxing.

(3) Nevada allows 15% of taxable valuation to be bonded for school facilities. This results in the inability to compute realistically the *unused bonding capacities* for purposes of this study, due to the constitutional limitation.

(4) All county-wide school districts have other types of Federal trust lands in addition to Indian trust lands. Approximately 83% of the state is tax-exempt due to Federal lands or Federally imposed trust on Indian lands. The impacts of other Federal tax-exempt lands affect Indian impacts.

(5) Many of the schools on Indian lands were formerly BIA operated schools. The Indian patrons of these schools still feel the BIA has a responsibility in assisting them to meet their educational needs.

(6) The former "Indian" schools in the large county districts are located in isolated areas, usually great distances from the other schools in the system.

(7) Like other isolated schools attended by Indian children, there is the extra need for the facilities where good career training can be fostered.

EFFORT TO FINANCE EDUCATION

Information on local taxing efforts for all education operations was compiled from the past 5 year period. Attempts to show the relative tax effort of districts in comparison with similar type districts in the particular state was not meaningful due to yearly fluctuations and lack of uniform taxing programs within some states. It was not possible to establish any pertinent relationship between taxing for current school operations and the construction aid needs of the districts.

TYPES OF CONSTRUCTION AID NEEDS

Based on the survey reports the greatest need is for new buildings including totally new education complexes. Expansion of existing facilities, remodeling of existing school plants and other types of needs were tabulated also. The other facilities include such needs as the development of playground areas, teacherages and equipment. Some projects may include the need for a new building as well as additions to other buildings and the remodeling of still other structures. The table that follows shows the types of construction aid needs by states.

TYPES OF CONSTRUCTION AID NEEDS

State	New	Expansion	Remodeling	Other
Alaska	8	3	3	1
Arizona	11	9	3	0
California	5	3	2	0
Colorado	0	0	0	0
Florida				
Idaho	1	1	1	0
Iowa	0	1	0	0
Kansas	2	1	0	0
Michigan	3	2	0	0
Minnesota	2	1	2	0
Mississippi				
Montana	17	13	7	1
Nebraska	3	1	0	0
Nevada	6	5	3	0
New Mexico	5	4	2	0
North Dakota	2	2	0	0
Oklahoma	27	17	16	0
Oregon	2	2	0	0
South Dakota	10	4	5	2
Utah	1	1	0	0
Washington	15	14	10	2
Wisconsin	3	3	1	0
Wyoming	4	1	0	0
Total	127	88	55	6

JUSTIFICATION OF NEEDS

The principal justification of needs as reported by public school personnel, is to provide space for expanding school enrollments. Second to this is the need to replace temporary, worn-out, unsafe and inadequate structures. Superintendents were asked, along with their narrative justifications, to check all the reasons shown in the six (6) categories that best reflect their needs. The number responding in this manner are shown as follows:

1. To house expanded enrollment	97
2. To replace temporary buildings	63
3. To meet health and safety standards	87
4. To develop housing for new and innovative programs	95
5. Will enable district to enroll Indian children now in Federal boarding schools	16
6. Other reasons	27

District officials were asked *how many* Federal boarding school students the district could accommodate if their construction aid needs were adequately funded. The responses of the sixteen (16) districts are in the table below.

State and School District	*No. of Children*
Alaska, Craig City	20
St. Mary's Public Sch	50
Arizona, Chinle No. 24	250
Puerco No. 8	240
Tuba City	150
Montana, Hays & Lodge Pole No. 50	40
Lodge Grass	40
North Dakota, Dunseith No. 1	50
Oklahoma, Oaks Mission	10
Salina J–16	56
Wold Dependent No. 13	20
South Dakota, Smee Independent No. 4	20
Waubay	60
Utah, San Juan County	606
Washington, North Beach No. 64	20
Quinault No. 87	5
Total	1,637

Typical of the narrative justifications is the one quoted from the Bark River-Harris District at Harris, Michigan. This is a minor impact district and one that is already bonded to the legal limit allowed by the state.

"Approximately 10% (72 out of 769) of our students are Indians. We expect this total to exceed 95 students in a few years. All of the Indians are very poor achievers. They rank extremely low on the State Assessment Tests which are given annually to all 4th and 7th graders. Very few finish high school. The school considers attendance the major issue. If Indian students are absent 30%–50% of the time they naturally will be low achievers and will gradually 'drop out.'

"The Indians claim the problem is a lack of stimulation on part of the school. If we cannot stimulate the students, they will not come to school and perform to the best of their abilities. Probably we are both right.

"We believe we are moving in the right direction now. An Indian counselor has been employed this year. We have added three Indian women as aides to work primarily with Indian children, and an Indian man to teach Indian Culture and Language to any Indian or White child who wish to take the classes. Class size average 16–24 students per class.

"The major problem now is a place for them to 'set their feet down.' The Indian counselor uses the lunch serving area for an office. She has to leave while lunch is being prepared and served.

"The Indian aides bounce from room to room each period, wherever they can find a vacant room.

"The Indian Culture instructor does the same. They both use as many as six different areas during a six period day.

"We have a small physical education area that serves grades K–12. As many as 60–70 students use the gym and locker room area. One male teacher is responsible for all of the activities. He cannot do justice to such large groups. A female instructor will be employed for the female students. Both could have jointly running classes if the facilities were available.

"Indians, who are traditionally known as athletes, are holding back and are not even trying to participate in education or athletics. We have only one Indian boy on our

high school basketball team and three on our football team.

"With added facilities more Indian students would become involved if they received more individual attention. Our main job, as I see it, is to re-instill pride in the Indians.

"We cover a land area in excess of 190 square miles. We are near the large Escanaba School system (170 square miles with over 5,000 students).

"There is no other direction for growth to expand but into the Bark River-Harris School System."

In Summary

"At present we have one small gym for physical education classes for the entire school district K–12 (769 students). The gym is occupied every hour of the school day. Many of the 7–12 grade students do not take gym because they are unable to schedule it. We are unable to provide the required physical and health classes because of the limited space. With additional facilities we would provide classes and other activities for all our school children and adults.

"We need additional classroom space to expand our curriculum courses on Indian Culture Handicraft, Indian Language and other courses of interest to all students.

"We need office space for our counselors (Indian and School). Office space for our consultants in remedial reading and special education, space for our community director, and conference rooms.

"By having the additional facilities we would be able to provide for courses and other activities that Indians would become interested, also would participate in community functions.

"The present facility is adequate for 600 students. The district has been growing steadily. We anticipate 900 or more students in the next five years, with approximately 10% Indians.

"Our present debt for building construction is $852,000; we are bonded to the maximum. Our district valuation is $4,800,000 and we levy a total of 20.2 mills for operation and debt retirement."

The need for a "liberal" interpretation of school construction aid requests is no better reflected than in the twentieth Annual Report of the Commissioner of Education pertaining to the Administration of Public Laws 81–874 and 81–815. In this report the Commissioner reviews recent congressional committee actions that support the changes in regulations affecting the Federal construction aid program operated under P.L. 81–815.

"As a result of changing educational needs, purposes and technology, and innovations occurring in elementary and secondary education, it is becoming common practice, particularly in larger school centers, to provide separate gymnasiums and separate auditoriums. During fiscal 1967, the definition of minimum school facilities in the Federal regulations was amended to permit the construction of such separate facilities with P.L. 81–815 funds where the size of pupil enrollment and curriculum requirements justify separate facilities. Further liberalization has resulted from the amendments enacted by P.L. 89–750, requiring applicants to consider excellence of architecture and design of any building constructed with the use of Federal funds by authorizing an amount not to exceed 1 percent of the project grant for incorporation of works of art in building plans, and by requiring that all facilities constructed with the use of Federal funds be made accesible to and usable by handicapped persons.

"When P.L. 90–247 was under consideration, the congressional committees included in the reports on the bill a statement giving the legislative history of the 'minimum school facilities' concept, and recommending the establishment of a more up-to-date concept of minimum school facilities than was included when the law was enacted in 1950 and amended in 1953. The report expressed the view that while the concept has served a useful purpose in the law and should be retained to prevent unnecessary or unwise expenditure of Federal funds, it needs to be modernized to fit the current trends in educational programs, techniques, and purposes; and that, with new devices for instruction becoming more widely used minimum school facilities should include, in addition to regular classrooms, special rooms for speech therapy, remedial reading, music appreciation, language laboratories, electronic data processing, and other facilities and equipment necessary for and useful in conducting special programs or activities for educationally deprived children. The report suggested further that the criterion to be used in approving features in buildings or other specialized facilities should be the need of them in the school program operated by the applicant school district; that is within the concept of minimum facilities to use Federal funds, particularly under subsections 14(a) and 14(b) in appropriate situations for construction of consolidated school facilities when small districts are merged, or to replace small isolated, inadequate buildings with modern facilities, even though the district may have enough classroom space to house all of the children. Also, considerable leeway may be exercised in determining what constitutes minimum school facilities in specific situations in consultation with the State education agency.

"A school district may have sufficient classroom space to accommodate the children in membership in its schools, but not have the minimum school facilities needed to conduct an adequate school program. In such cases, Federal funds under the Act may be approved as indicated above for the construction of the needed minimum facilities, such as library, administrative space, kitchen and cafeteria, or other noncapacity facilities."

It is of special interest to note that 40 of the 119 high school districts reporting, specifically identified the need for new or expanded vocational shop buildings as a major district need.

CONSTRUCTION AID NEEDED NOW

The survey forms provided the option of projecting construction aid needs for one to five years as against the facilities that are needed now.

Based on the reports the overwhelming need for Federal assistance is now. Only fourteen (14) of the 162 districts reported a portion of their needs projected within five (5) years. The cost estimate of projected needs is $6,839,652.

IS THE P.L. 815 PROGRAM ADEQUATE?

Each superintendent was asked "If P.L. 815, as presently operated, was adequately funded, do you believe your needed funds could be secured under this federal aid program?"

The responses were:

67—Yes—representing $141,266,215 or 72% of computed need total.

95—No—representing $45,453,340 or 28% of computed need total.

There are many reasons for the no responses. Many superintendents are not aware of the "liberalization" of what constitutes "minimum school facilities" provided under P.L. 815 as a result of the Congressional committee report accompanying P.L. 90–247. Other superintendents advised that while they might expect some funds under P.L. 815, they felt the amount would be insufficient to meet their needs.

Probably the main reason for the no responses is the fact that P.L. 815 counts only children whose parents actually live or work on the reservation trust land. This eliminates many Indian children who live "near" the reservation trust lands for P.L. 815 construction aid purposes. The BIA counts all Indian children living on or near the reservation trust land for Johnson-O'Malley Act purposes. Hence the minor impact districts where the "on or near" problem exists, much favor a BIA authority to provide construction aid.

THE COST OF NEEDED FACILITIES

The cost of needed repairs and facilities is based on estimates submitted by the reporting districts. The basis of the cost estimates by category for the number of districts responding are:

Recent construction experience or architectural estimates	68
P.L. 815 cost data	49
Overall square feet	5
Other	40

The category "other" represents the least objective basis for the estimates. In general, they are guesses or what is referred to as "horseback estimates." Seventy-five (75%) percent of all estimates are considered to be valid.

SUMMARIES

Total cost estimates of the 162 reporting districts for all needed facilities is	$237,962,723
Total cost using all available local resources (principally unused bonding capacity) is	168,949,044
Total cost using one-half of the unused bonding capacity as a resource is	190,764,745

Other survey data by states, districts and impacts are shown in the Appendix.

LATE REPORTING DISTRICTS

The survey data of six (6) school districts (2 in Minnesota and 4 in New Mexico) were received too late to be included in the computer totals on which the tables in this report are based. Notwithstanding basic information concerning the needs in these districts is shown in a table in the Appendix. Another school district (Red Lake, Minnesota) upgraded their original construction aid need estimate by $4,087,936 too late to be included in the computed total. The addition of these districts increases the computed need total by $12,933,515.

TRIBALLY OPERATED SCHOOLS

Some tribes operate schools under a BIA contract. The needs in these schools were not considered as a part of this public school survey. However, one such school, the Wyoming Indian High School, expects to become a public high school within 5 years. Needs data on this school are shown in the Appendix.

DISTRICTS NOT NEEDING FEDERAL CONSTRUCTION AID

Eighty-six (86) districts in seventeen states (17) reported no Federal construction aid is needed. Some have received prior Federal grants but most of the districts cited local bonding efforts as the primary reason for the adequacy of their school facilities. The identification of the districts and the reasons given for *no construction aid* needed is shown in the Appendix.

PRIORITIES

The most difficult part of the study is determining an objective priority measurement. The difficulty is trying to equate the needs between the schools when the problems and reasons for the problems are so different. Some schools need facilities due to rapid increases in enrollment; and others due to old, wornout, unsafe and already condemned structures. Still others may have adequate classroom space but desperately need a cafeteria, library, vocational shops, home economics laboratories, other auxiliary space and especially teacherages in the vast isolated areas that characterize much of Indian country.

The difficulty of equating needs between schools on a priority basis is multiplied when such variables as the following are considered:

(1) The ratio of Indian children to non-Indians in the total school enrollment;

(2) The ability of school districts to finance needed facilities based on unused bonding capacity or the taxable valuation behind each child (the latter varies greatly in comparison with state averages for similar type districts); and

(3) The unusual situations mostly affecting large county-wide districts with major Indian impacts centered in one or more of the schools operated by the district.

The paramount principle in the development of priorities is the extent of assumed Federal responsibility to meet or share in providing for the needs of Indian children. It is on a similar principle that the priority indexes have been developed and used in administering construction aid assistance to fderally-affected areas under P.L. 815 as amended.

The priority index under the P.L. 815 program is based on the sum of the ratio (%) of federally affected children to the total school membership and the ratio (%) of the number of unhoused children to the adequately housed children computed to the end of the four (4) year increase period. However, the ratio (%) of the unhoused to housed children cannot exceed the ratio (%) of the federally-affected children to the total school membership. The above procedure is applied to each school district except in those instances, like the situations in Nevada, where the attendance units have been determined to be a more practical base.

For purposes of this study the P.L. 815 priority index method has been adopted by substituting Indian children for federally affected children in the application of the priority index formula.

Based on the construction aid needs of the public schools reporting, the priority index for each district, beginning at the highest, is suggested and shown in the table on the following pages. The computed need totals (also shown) have not been adjusted to reflect a more realistic computed need for the unusual Indian impact districts such as the Nevada situation.

District	State	Priority index	Computed need
Santee C–5	Nebraska	200	$877,251
Heart Butte No. 1	Montana	194	1,987,171
Frazer No. 2 and No. 2B	do	164	1,000,208
Hays and Lodge Pole	do	164	2,772,729
St. Mary's	Alaska	160	217,750
Arapaho No. 38	Wyoming	155	80,000
Indian Oasis No. 40	Arizona	149	4,809,606
Ganado No. 19	do	144	4,174,040
Kayenta No. 27	do	143	1,715,000
Chinle No. 24	do	142	11,205,494
Pelican	Alaska	140	526,205
Brockton No. 55	Montana	140	1,261,588
Tuba City Elementary No. 15	Arizona	139	13,605,548
Nett Lake No. 707	Minnesota	138	147,060
Red Lake No. 38	do	138	986,910
Incheliem No. 7	Washington	138	99,952
Taholah No. 77	do	137	790,949
Lame Deer No. 6	Montana	135	462,000
Mineral County	Nevada	135	0
Lodge Grass No. 27	Montana	134	2,262,652
Browning No. 9	do	133	14,687,681
Pryor	do	132	210,485
Whiteriver Elementary No. 20	Arizona	132	3,705,408
Sacaton No. 18	do	130	1,268,301
Babb No. 8	Montana	130	150,237
Alchesay High School No. 2	Arizona	128	2,523,924
Monument Valley High School	do	128	185,000
Dulce Indept. No. 1	New Mexico	127	200,000
Central Consolidated	do	125	506,562
Window Rock No. 8	Arizona	120	750,000
St. John No. 3	North Dakota	120	2,502,932
Ryal D3	Oklahoma	115	184,600
Shannon County Independent No. 1	South Dakota	114	105,300
Box Elder No. 36	Montana	111	34,552
Ft. Washakie No. 21	Wyoming	109	46,605
Stony Point	Oklahoma	109	13,488
Hulbert No. 17	do	109	0
Puerco No. 18	Arizona	107	605,000
Dahlonegah No. 29	Oklahoma	106	465
Magdalena No. 12	New Mexico	105	471,600
Bernalillo No. 1	do	105	773,000
Moccasin No. 10	Arizona	104	100,764
Gallup-McKinley	New Mexico	104	33,110,714
Powhattan No. 150	Kansas	102	386,135
Waubay	South Dakota	101	4,419,200
Jefferson County No. 509J	Oregon	100	231,400
Edgar High School No. 4	Montana	100	828,322
Tenkiller No. 66	Oklahoma	100	141,000
Craig City	Alaska	98	1,971,294
Hardin	Montana	98	0
Elko County	Nevada	97	0
Wolf No. 13	Oklahoma	96	38,433
Greasy School No. 72	do	95	24,428
Bell No. 33	do	95	377,385
Smee Independent No. 4	South Dakota	95	267,837
Wellpinit No. 49	Washington	94	188,852
Harlem No. 12	Montana	93	581,554
Klawock City	Alaska	93	65,000
Cape Flattery	Washington	93	0
Humboldt County	Nevada	90	0
Eight Mile No. 6	North Dakota	90	388,000
Kenwood D–30	Oklahoma	90	31,150
Justice D–54	do	90	0
Elmo No. 20	Montana	88	180,385
San Juan	Utah	86	1,200,000
Hoonah	Alaska	85	60,080
Dunseith No. 1	North Dakota	84	846,000
Todd County Independent	South Dakota	84	361,772
White River Independent No. 29	do	83	486,463
Mt. Adams No. 209	Washington	82	1,114,138
Nespelem No. 14	do	81	0
Nome	Alaska	80	2,233,073
Winnebago	Nebraska	80	171,065
Oaks Mission	Oklahoma	80	144,000
Churchill County	Nevada	80	113,500
Boone D–56	Oklahoma	80	40
Mill Creek Elementary No. 14	Wyoming	80	313,000
Rocky Mountain D–24	Oklahoma	79	12,746
Poplar No. 9	Montana	78	300,000
Graham No. 32	Oklahoma	76	0
Castle No. 19	do	76	12,655
Shady Grove	do	73	12,200
Pleasant Grove	Oklahoma	71	$35,000
Oakville	Washington	70	182,593
Smithville	Oklahoma	70	165,000
Kodiac Island Borough	Alaska	66	400,000
Nome-Beltz Regional	do	65	3,500,000
Grand View No. 34	Oklahoma	65	14,000
Kamsax I–3	do	64	237,000
Maryetta No. 22	do	64	17,654
Salina I–16	do	63	255,796
Page No. 8	Arizona	63	0
New Town No. 1	North Dakota	61	63,532
Mary Walker No. 207	Washington	61	336,000
Wrangell	Alaska	59	1,925,000
Parker No. 27	Arizona	58	1,156,436
Wickliffe D–35	Oklahoma	57	18,615
Spavinaw D–21	do	56	0
San Pasqual Valley Unified	California	54	0
Nenama City	Alaska	53	275,418
Indiahoma No. 2	Oklahoma	53	30,000
Cottonwood D–4	do	52	0
St. Ignatius	Montana	52	438,204
Fillmore D–34	Oklahoma	50	100,000
Andes Central Independent No. 103	South Dakota	50	0
Curlew No. 50	Washington	48	610,000
Anadarko I–17	Oklahoma	46	122,295
Stilwall I–25	do	44	452,000
Haines Borough	Alaska	44	709,557
Marysville No. 25	Washington	44	0
Bark River-Harris	Michigan	43	265,000
Mayetta-Hoyt No. 337	Kansas	43	860,000
Sisseton Independent	South Dakota	40	3,331,720
Baraga Township	Michigan	39	7
Gila Bend Elementary and High School	Arizona	38	258,916
West River No. 18	South Dakota	38	0
Brimley 17–140	Michigan	37	224,034
Hammon Independent	Oklahoma	37	0
Bayfield Junction No. 1	Wisconsin	36	0
Carnegie ISD 33	Oklahoma	35	391,518
Browler Junction No. 1	Wisconsin	34	0
Port Angeles	Washington	34	0
Cusick No. 59	do	34	206,867
Walthill No. 13	Nebraska	30	0
Wind River No. 6	Wyoming	30	0
Canton Public Schools	Oklahoma	29	290,806
Round Valley Unified	California	28	0
Wolf Point No. 45	Montana	28	0
Grand Coulee Dam No. 301–J	Washington	26	0
North Beach No. 64	do	26	0
Indian Camp D–23	Oklahoma	25	0
Quinault No. 97	Washington	22	0
Hood Canal No. 404	do	20	0
Charlo No. 7	Montana	20	245,000
Quillayute Valley No. 402	Washington	20	0
Lakeland Union High School	Wisconsin	20	0
Carson City	Nevada	20	1,855,548
Ronan	Montana	18	417,023
Wilmot Independent	South Dakota	18	1,720,000
Summit No. 19	do	17	61,315
Winner Independ. No. 110	do	16	21,449
Princeton Junction Unified	California	16	0
Tama Community	Iowa	14	0
Park Rapids No. 309	Minnesota	14	0
Toppenish	Washington	12	0
Bishop Elementary	California	12	0
Lyon County	Nevada	12	6,400,000
L'amse Township	Michigan	11	0
Watonga Independent	Oklahoma	11	124,585
Hot Springs No. 14J	Montana	10	262,000
Valley Center Union	California	10	141,247
Umatilla County No. 16R	Oregon	8	0
Wisconsin Dell Jr. No. 1	Wisconsin	8	0
Pocatello No. 25	Idaho	6	1,496,060
Mountain Empire Unified	California	6	0
Nye County	Nevada	5	0
Brewster No. 11	Washington	5	164,000
Sunnyside No. 12	Arizona	4	1,263,682
Bellingham	Washington	3	0
Thurston No. 3	do	2	0
Clark County	Nevada	1	0
Total			163,949,044

RECOMMENDATIONS: DISCUSSION OF ALTERNATIVES

Using data assembled, various alternatives were evaluated in the search for procedures or policies that would best set forth and present for Congressional action, the problem of the construction needs surveyed by this study. These alternatives are listed and discussed under numerical headings for the purpose of identification only with no significance to be placed upon the order of presentation. Every method analyzed will be ineffective if Federal funding is inadequate; however, at any given level of appropriation, it is believed the comments pertain.

1. Continue the existing presentation of public school construction needs to the Department of H.E.W. under the present P.L. 81–815 authorizations and procedures.

This process would provide, in one request, all the public school construction estimates to meet Federal impacts as defined in the law. Information gathered indicates the authorization, generally, would cover the needs involving Indian children recognizing the Department of H.E.W. is empowered to meet special organizational, isolation, or financial anomalies by variations from general policy guidelines when deemed appropriate. Objections to this procedure are that Indian projects, under Section 14, have been assigned a lower priority compared with other Federal impacts. The lack of funding has prevented H.E.W. from making use of their discretionary authorities to give Indian needs under Section 14, special attention.

2. Rely, as in the past, on (a) Congressional interest to provide additions to the BIA budget, of construction projects advocated by public school districts, and on, (b) the insertion, by BIA in its annual budget, as has been undertaken for Alaska, of projects to be transferred to the public schools upon completion.

This process, in light of minimum P.L. 81–815 funding and expenditure limitations, has been effective in meeting Indian needs. Objections to this process are that it fragments the Government's evaluation of construction aid to public schools; that it is based more on expediency than reasoned priority allocation to needs; that it deviates from accepted Congressional legislative and appropriative processes and is, therefore, subject to a parliamentary "point of order". The construction and immediate transfer of BIA facilities to public schools, as in Alaska, although involving important and pressing Indian education problems, might be considered of questionable legislative authority.

3. Seek legislation authorizing the inclusion, in the BIA budget, of funds to construct facilities for public schools educating Indian children, said projects to be developed either as financial grants to the public schools for construction or by the erection of such facilities by BIA construction procedures with transfer of titles to the public schools immediately upon building completion.

This process would consolidate all Federal funding for Indian educational purposes under one budget item and allow for thorough Congressional evaluation and action. It would permit the exercise of judgment in selecting the means of construction to best meet factors such as isolation, size of project, land ownership, and BIA or local construction capabilities. Objections to this process are that it splinters Federal treatment of public school impact situations; that it injects public school needs into the BIA budget; that it requires some duplication of evaluation effort with that used by HEW for all other public school construction aid projects under P.L. 81–815; that the Indian right to a free public school education could be compromised by involving BIA in both advocating Indian rights to schooling and in providing school facilities; and that for the last ten (10) years, budget allocations to Indian school construction have been only 50% of that needed if known Federal school needs are to be met in the next ten (10) years.

4. Continue present P.L. 81–815 authorizations and procedures using the data contained in this study to secure Administration or Congressional committee support to increase the present informal allocation of P.L. 81–815 funds so that Section 14 projects could receive at least a 50% share of each annual appropriation.

This process would retain the established, and it is believed, effective procedures of H.E.W. in determining priorities, meeting exceptional situations, supervising design and construction of public school projects and would, according to the evaluations of this report, more nearly comply with the National policy toward our Indian citizens. It does not require legislative action. It can be developed by H.E.W. or through Congressional Committees on Education. This would retain Federal Assistance to public schools under one appropriation authority; would avoid duplication of staff supervising the allocation of funds, approval of projects and construction of buildings; and would utilize a process that is widely known and understood by public school administrators. It would centralize all public school requests at one agency for a more rational evaluation of priorities; would permit executive decisions on budgetary allowances for public school impacts; and would permit the channelling of all constituent requests to one Committee in each branch of the Congress. Objections to this procedure are that, while Indian program priorities have received much publicity, they have not been too vigorously supported under Section 14 of P.L. 81–815. Other schools and Federal agencies, benefiting by the other sections of P.L. 81–815, relating principally to non-Indians, will have to be convinced of the National determination to implement the stated policy for Indians.

One other dimension to P.L. 81–815 route for meeting all public school construction aid needs related to Federal impacts, is the fact that H.E.W. for P.L. 81–815 purposes counts only children whose parents live or work on Federal properties (as defined in the law) while the BIA counts Indian children who live "on or near" reservations for program eligibility purposes. In application of the "on or near" principle, the BIA, in most state plans, counts all Indian children residing in the districts encompassing reservation tax-free lands for JOM Act program purposes. The desirability of uniform eligibility requirements seems apparent. Whether or not the P.L. 81–815 regulations could be changed by administrative action to achieve uniform eligibility requirements between H.E.W. and the Interior Department is not known.

5. Seek legislative authority for the BIA to construct school facilities for elementary public schools in the State of Alaska without impairing the right of such schools to seek funds under P.L. 81–815.

This process would provide for the particular problems associated with Alaska as a new state; with the developing borough organization of their public school districts; with the problems of small schools in isolated locations; and with the lack of local construction capability. It would assist the State in its willingness to assume responsibility for educating Native citizens and, as a general rule, would involve relatively small installations. Objections to this procedure are the continued involvement of BIA in public school construction; the fragmentation of presenting public school impact needs to Congress; and the duplication of staff effort.

RECOMMENDATIONS—A SUGGESTED POLICY GUIDE

In fullest consideration of all factors compiled in this study that are inherent in the development of broad national policy, it is recommended;

1. That, the Bureau of Indian Affairs, in its contact relationships with the higher echelons of the Administration and the Committees of Congress, recommend that the present program under P. L. 815, as amended, be continued as the most logical way to meet the acute construction aid needs of Indian and other Federally impacted public school districts with the important modification that the allocation of funds to Section 14 be increased to 50% of all available funds;

Discussion: This can be done by Administrative or Committee action without a change in the law.

2. That, the Bureau of Indian Affairs seek legislative authority to construct elementary school facilities for the public schools with large Native impacts in the State of Alaska without impairment of the right of such schools to seek funds under P. L. 815 as amended.

Discussion: This would regularize a policy the Bureau of Indian Affairs has been following for years; namely, of constructing needed facilities in native villages and then turning them over to the public schools for operation.

3. That, the Bureau of Indian Affairs seek broad legislative authority to provide grants to Indian impacted public schools for the construction of needed facilities in the event that P. L. 815 is not funded to a sufficient level to meet the acute backlog of needs identified in this study.

Discussion: This would provide standby authority to the BIA in recognition of the difficulties there might be in securing increased appropriations for the P. L. 815 program. BIA construction aid authority could be sought through changes in the Johnson-O'Malley Act or by separate legislative authority similar to that proposed by the Jackson Bill (S. 1017), 93rd Congress, on which hearings are being held at the time of this report. The amount of the grant to any individual district should be determined only after a sound engineering survey of needs and costs and after consideration of the extent that local potentially available resources can be considered realistically in determining the local share of a total project. The priority procedures suggested in this report should assist in establishing order of consideration of requests.

It should be recognized that all plans hinge upon increased appropriations for construction aid purposes.

The National Indian Training and Research Center has the supporting exhibits on file of the basic survey data submitted by public school district personnel.

District	Grades	Enrollment: Current	Enrollment: Percent Indian	5 yr. growth: Number	5 yr. growth: Percent	District land Percent Indian	Valuation PP percent to State average	Estimated cost of facilities	Less local resources	Computed need
Alaska:										
Craig City	KEH	161	70	72	45	[1] NA	26	$2,000,000	$28,706	$1,971,294
Haines Borough	KEH	474	24	65	16	[1] NA	[1] NA	2,233,770	1,514,213	709,557
Hoonah	KEH	284	85	0	0	[1] NA	14	250,000	189,920	60,080
Klawock City	E	64	97	0	0	[1] NA	18	90,000	25,000	65,000
Kodiack Island Borough	KEH	2,361	33	444	23	[1] NA	28	400,000	0	400,000
Nenana City	KEH	230	52	16	7	[1] NA	34	350,000	74,582	275,418
Nome	KEH	555	80	0	0	[1] NA	33	2,500,000	266,927	2,233,073
Nome-Beltz Regional	H	366	80	212	13	[1] NA	[1] NA	3,500,000	0	3,500,000
Pelican	KEH	41	61	16	64	[1] NA	50	650,000	123,795	526,205
St. Marys	KEH	113	98	101	84	[1] NA	6	250,000	32,250	217,750
Wrangell	KEH	616	35	116	23	[1] NA	[1] NA	2,750,000	825,000	1,925,000
Total		5,265	47	848	19			14,963,770		11,883,377
Arizona:										
Alchesay High School No. 2	H	326	80	97	42	100	11	2,601,152	77,228	2,523,924
Chinle No. 24	KEH	3,418	86	1,533	81	99	35	12,000,000	794,506	11,205,494
Ganado No. 19	KEH	1,698	85	453	36	99	53	4,180,427	6,387	4,174,040
Gila Bend	KEH	816	13	64	9	2	58	1,000,000	741,084	258,916
Indian Oasis No. 40	KEH	1,022	95	423	71	100	5	4,834,100	24,494	4,809,606
Kayenta No. 27	KE	1,050	90	375	56	98	43	1,750,000	35,000	1,715,000
Moccasin No. 10	KE	18	55	0	0	36	82	120,000	19,236	100,764
Monument Valley	H	506	87	278	122	98	45	600,000	415,000	185,000
Page No. 8	KEH	2,036	25	1,233	153	98	90	1,500,000	1,800,000	0
Parker No. 27	KE	1,275	29	233	21	50	78	1,302,646	146,210	1,156,436
Puerco No. 18	KE	714	70	188	38	56	106	850,000	220,000	650,000
Sacaton No. 18	KE	868	99	520	149	96	18	1,400,000	131,699	1,268,301
Sunnyside No. 12	KEH	9,833	2	3,683	60	37	46	3,150,000	1,886,318	1,263,682
Tuba City No. 15	KE	1,711	90	817	91	99	15	13,678,170	72,622	13,605,548
Whiteriver Elementary No. 20	E	1,295	91	262	25	100	7	3,782,636	77,228	3,705,408
Window Rock No. 8	KEH	2,562	86	413	19	99	21	750,000	0	750,000
Total		29,148	46	10,562	56			53,499,131		47,372,119
California:										
Bishop Elementary	E	1,561	12	111	8	1	151	300,000	1,656,417	0
Mountain Empure Unified	KEH	1,015	3	164	19	6	190	1,600,000	2,000,000	0
Princeton Junction Unified	KEH	340	9	10	3	1	296	600,000	1,800,000	0
Round Valley Unified	KEH	394	28	43	12	4	160	409,073	879,351	0
San Pasqual Valley	KEH	662	47	43	7	8	87	200,000	492,411	0
Valley Center Union	KE	739	6	310	75	6	250	1,250,000	1,108,753	141,247
Total		4,711	15	681	16			4,359,073		141,247
Idaho: Pocatello No. 25	EH	11,966	3	0	0	47	64	6,000,000	4,503,940	1,496,060
Iowa: Tama	KEH	2,573	8	217	9	1	82	300,000	3,491,168	0
Kansas:										
Mayetta-Hoyt No. 337	KEH	752	16	2	1	12	45	860,000	0	860,000
Powhatton No. 510	KEH	245	43	30	14	30	202	−750,000	363,865	386,135
Total		997	22	32	3			1,610,000		1,246,135
Michigan:										
Bark River-Harris	KEH	769	9	126	20	3	35	265,000	0	265,000
Baraga Township	KEH	788	15	138	21	11	39	110,000	730,500	0
Brimley No. 17–140	KEH	542	25	46	9	2	53	399,500	175,466	224,034
L'Anse Township	KEH	1,107	11	0	0	11	70	364,000	1,825,000	0
Total		3,206	13	220	7			1,138,500		489,034
Minnesota:										
Nett Lake No. 707	KEH	91	98	0	0	100	1	150,000	2,940	147,060
Park Rapids No. 309	KEH	2,300	7	293	15	1	81	425,000	425,000	0
Red Lake No. 38	KEH	905	99	170	23	99	1	1,000,000	13,090	986,910
Total		3,296	34	426	14			5,662,936		5,221,906
Montana:										
Babb	KE	77	91	7	10	71	[1] NA	300,000	149,763	150,237
Box Elder	KEH	275	86	65	30	33	42	100,000	56,448	34,552
Brockton	KEH	215	98	46	27	49	42	1,297,000	35,412	1,261,588
Browning	KEH	2,165	80	307	17	69	26	14,687,681	0	14,687,681
Charlo	KEH	300	10	0	0	26	65	300,000	55,000	245,000
Edgar	KEH	69	43	5	8	0	80	1,000,000	171,678	828,322
Elmo	KE	48	88	19	65	50	109	200,000	19,615	180,385
Frazer	KEH	205	79	4	2	35	[1] NA	1,120,000	119,792	1,000,208
Hardin	KEH	1,255	36	0	0	43	125	750,000	1,147,843	0
Harlem	KEH	420	57	70	20	55	108	1,000,000	418,446	581,554
Hays and Lodge Pole	KEH	230	99	0	0	96	6	2,788,825	16,096	2,772,729
Heart Butte	KE	196	96	20	11	95	(1)	2,146,400	12,829	1,987,171
Hot Springs	KEH	372	10	8	2	0	87	262,000	0	262,000
Lame Deer	KE	350	85	41	13	98	29	500,000	38,000	462,000
Lodge Grass	KEH	525	69	0	0	48	50	3,200,000	937,348	2,262,652
Poplar	KE	705	62	0	0	49	96	800,000	500,000	300,000
Pryor	KE	70	100	18	36	48	142	300,000	89,515	210,485
Ronan	KEH	1,252	10	119	11	47	84	1,000,000	582,977	417,023
St. Ignacius	KEH	645	27	106	20	46	69	592,240	154,036	438,204
Wolf Point	KEH	1,203	23	0	0	49	101	350,000	754,437	0
Total		10,577	50	295	2			32,695,146		28,237,191
Nebraska:										
Santee No. c-5	KEH	48	100	32	200	16	9	900,000	22,749	877,251
Walthill	KEH	385	15	0	0	21	71	50,000	321,705	0
Winnebago	KEH	324	71	0	0	46	28	300,000	128,935	171,065
Total		757	44	49	6			1,250,000		1,048,316

Footnotes at end of table.

District	Grades	Enrollment: Current	Enrollment: Percent Indian	5 yr. growth: Number	5 yr. growth: Percent	District land Percent Indian	Valuation PP percent to State average	Estimated cost of facilities	Less local resources	Computed need
Nevada:										
Carson City	KEH	5,215	10	1,544	42	1	62	$4,000,000	$2,144,451	$1,855,548
Churchill County	KEH	3,014	6	590	24	2	68	4,500,000	4,386,500	113,500
Clark County	KEH	75,800	1	0	0	1	103	110,000	101,486,042	0
Elko County	KEH	4,052	8	43	1	2	131	400,000	7,463,119	0
Humboldt	KEH	1,756	10	26	2	5	115	243,000	2,955,571	0
Lyon County	KEH	2,574	6	485	23	4	140	12,149,183	5,749,183	6,400,000
Mineral County	KEH	1,783	13	375	27	12	32	412,500	1,500,000	0
Nye County	E	771	4	138	15	5	211	225,000	2,877,300	0
Total		94,965	2	0	0			22,039,683		8,369,048
New Mexico:										
Bernalillo No. 1	KEH	2,835	50	250	9	55	31	1,133,000	360,000	773,000
Central Consolidated	KEH	5,109	83	1,630	46	97	171	2,080,000	1,573,438	506,562
Dulce Independent No. 1	KEH	698	81	80	12	80	197	800,000	600,000	200,000
Gallup-McKinley No. 1	KEH	13,008	63	2,368	22	83	60	33,643,091	532,377	33,110,714
Magdalena No. 12	KEH	644	56	30	5	5	65	501,600	30,000	471,600
Total		22,294	66	4,358	24			38,157,691		35,061,876
North Dakota:										
Dunseith No. 1	KEH	761	65	88	13	13	10	875,000	29,000	846,000
Eight Mile School No. 6	KEH	178	44	38	27	3	52	750,000	362,000	388,000
New Town No. 1	KEH	803	46	129	18	5	30	114,532	51,000	63,532
St. Johns No. 3	KEH	300	50	18	6	62	10	2,538,500	35,568	2,502,932
Total		2,042	55	268	15			4,278,032		3,800,464
Oklahoma:										
Anadarko I-13	KEH	2,139	31	0	0	23	47	130,000	7,705	122,295
Bell No. 33	KE	267	75	29	12	70	6	355,000	17,615	377,385
Boone No. d-56	KE	71	75	1	2	70	133	40,000	39,960	40
Canton	KEH	472	29	64	16	12	146	750,000	459,194	290,806
Carnegie ISD-33	KEH	885	34	8	1	26	71	800,000	408,482	391,510
Castle No. 19	KE	91	40	17	23	11	54	22,000	9,345	12,658
Cottonwood D-4	E	78	27	28	56	1	10	10,000	49,337	5
Dahlonegah No. 29	KE	109	86	2	2	66	21	16,000	15,535	460
Fillmore D-34	KE	76	30	0	0	30	39	111,765	11,765	100,005
Graham I-32	KEH	212	47	22	12	16	40	48,000	58,616	0
Grand View No. 34	KE	314	34	148	89	7	38	40,000	26,000	14,000
Greasy No. 32	KE	254	74	67	36	50	17	50,000	25,572	24,428
Hammon Independent No. 66	KEH	297	38	0	0	4	170	125,000	316,950	0
Hulbert No. 17	KE	218	66	0	0	5	11	8,000	16,800	0
Indiahoma No. 2	KEH	259	32	2	1	16	69	103,000	73,000	30,000
Indian Camp D-23	KE	77	32	7	10	5	466	40,000	199,905	0
Justice D-54	KE	73	85	0	0	60	87	25,000	35,264	0
Kansas I-3	KE H	645	38	28	5	20	21	250,000	13,000	237,000
Kenwood D-30	KE	89	85	21	31	90	10	37,000	5,850	31,150
Marble City D-35	KE	210	54	46	28	3	48	80,000	45,000	35,000
Maryetta No. 22	KE	217	50	94	76	25	10	50,000	32,346	17,654
Oaks Mission	H	469	51	99	27	5	7	150,000	6,000	144,000
Pleasant Grove I-5	KEH	259	38	22	9	16	4	98,000	63,000	35,000
Ryal D-3	KE	71	59	0	0	50	33	200,000	15,400	184,600
Rocky Mountain D-24	KE	114	43	3	3	13	18	23,800	11,054	12,746
Salina I-16	KEH	775	35	76	11	36	20	258,796	3,000	255,796
Shady Grove No. 26	KE	85	30	1	1	6	28	30,000	17,800	12,200
Smithville	KEH	461	32	227	97	5	41	170,000	50,000	165,000
Spavinaw D-21	E	112	31	0	0	3	90	18,000	54,995	0
Stillwell I-25	KEH	1,367	32	115	9	5	28	655,000	203,000	452,000
Stony Point	KE	76	42	21	38	15	140	42,000	28,512	13,488
Tenkiller No. 66	KE	214	50	100	88	5	33	250,000	109,000	141,000
Watonga Independent	KEH	1,116	11	15	1	1	91	144,000	19,415	124,585
Wickliffe D-35	KE	57	50	0	0	64	50	30,000	11,385	18,615
Wolf Independent No. 13	KE	70	40	0	0	5	113	93,000	54,576	38,433
Total		12,299	37	758	6			5,255,361		3,241,859
Oregon:										
Jefferson City No. 509-J	KEH	2,213	30	105	5	10	280	231,400	0	231,400
Umatilla County	KEH	3,775	4	0	0	15	[1] NA	600,000	11,800,000	0
Total		5,988	13	171	2			831,400		231,400
South Dakota:										
Andes Central Independent No. 103	KEH	603	19	4	1	6	78	700,000	913,642	0
Todd County Independent	KEH	1,947	61	330	20	70	37	1,160,000	1,298,228	361,772
Shannon City Independent No. 1	KEH	1,397	91	362	35	83	24	725,000	619,700	105,300
Sisseton Independent No. 1	KEH	1,652	32	31	2	12	58	4,500,000	1,168,280	3,331,720
Smee Independent No. 5	KEH	201	95	0	0	79	3	347,000	79,168	267,837
Summit Independent No. 19	KEH	248	15	11	5	1	102	75,000	13,685	61,315
Waubay Independent No. 184	KEH	512	27	0	0	21	71	5,075,000	655,800	4,419,200
West River No. 18	KEH	631	21	19	8	33	140	300,000	1,491,786	0
White River Independent No. 29	KEH	448	44	31	7	36	116	1,500,000	1,014,537	486,463
Wilmot Independent No. 2	KEH	458	18	0	0	11	112	2,400,000	680,000	1,720,000
Winner Independent No. 110	KEH	1,745	8	352	25	8	133	35,000	13,551	21,449
Total		9,842	40	1,443	17			17,317,000		10,775,056
Utah: San Juan	KEH	2,713	46	398	17	25	285	3,000,000	1,810,000	1,200,000
Washington:										
Bellingham	KEH	8,694	3	0	0	2	75	2,875,000	9,075,000	0
Brewster	KEH	580	7	55	10	18	109	750,000	586,000	164,000
Cape Flattery No. 401	KEH	649	36	0	0	11	135	1,525,000	2,017,967	0
Curlew	KEH	186	22	16	9	17	75	900,000	290,000	610,000
Cusick	KEH	355	17	9	3	2	74	500,000	293,133	206,867
Grand Coulee	KEH	1,515	13	690	84	0	23	500,000	1,457,000	0
Hood Canal	KE	424	18	79	23	15	257	200,000	1,300,000	0
Inchelium No. 70	KEH	188	76	0	0	100	63	350,000	251,048	99,952
Marysville	KEH	5,632	5	977	21	17	67	800,000	1,565,000	0
Mary Walker	KEH	453	14	210	86	11	54	1,450,000	1,114,000	336,000
Mount Adams No. 209	KEH	977	51	0	0	100	55	2,052,000	937,862	1,114,138
Nespelem No. 14	KE	178	83	0	0	99	37	10,000	127,957	0
North Beach	KEH	720	12	11	2	9	357	240,000	5,322,000	0
Oaksville No. 400	KEH	373	28	42	12	13	85	840,000	647,407	182,593
Port Angeles	KEH	4,870	5	0	0	1	90	3,500,000	9,328,936	0
Ruillayute Valley	KEH	1,400	10	75	6	1	91	1,000,000	2,443,809	0

District	Grades	Enrollment: Current	Enrollment: Percent Indian	5 yr growth: Number	5 yr growth: Percent	District land Percent Indian	Valuation PP percent to State average	Estimated cost of facilities	Less local resources	Computed need
Taholah No. 77	KE	159	96	6	4	72	136	$860,000	$69,051	$790,949
Thurston	KEH	6,874	1	774	13	6	50	150,000	6,300,000	0
Toppenish	KEH	2,891	12	56	2	80	44	1,175,000	1,841,044	0
Quinalt	KEH	420	7	20	5	11	116	900,000	995,000	0
Wellpinit No. 49	KEH	195	89	10	5	90	24	250,000	61,148	188,852
Total		37,734	8	2,342	6			20,827,000		3,693,351
Wisconsin:										
Bayfield Joint No. 1	KEH	506	18	117	30	8	28	100,000	101,448	0
Bowler Joint No. 1	KEH	598	22	0	0	13	44	700,000	837,910	0
Lakeland Union High School	H	748	10	174	23	9	199	500,000	9,084,000	0
Wisconsin Dells Joint No. 1	KEH	1,660	4	152	10	1	92	2,200,000	7,751,429	0
Total		3,512	10	436	14			3,500,000		0
Wyoming:										
Arapaho No. 38	KEH	240	80	2	1	100	20	100,000	20,000	80,000
Fort Washakie No. 21	KEH	244	91	0	0	100	116	325,000	278,395	46,605
Mill Creek Elementary No. 14	KE	370	80	3	1	100	41	355,000	42,000	313,000
Wind River No. 6	KEH	430	20	30	8	50	188	500,000	583,393	0
Total		1,284	61	1	0			1,280,000		439,605
Grand total		265,169	22	21,884	9			237,963,723		163,949,044

[1] Not available.

District	Estimated cost of facilities	Less ⅓ local resources	Need (computed)
Alaska:			
Craig City	$2,000,000	$14,353	$1,985,647
Haines Borough	2,233,770	757,107	1,476,663
Hoonah	250,000	94,960	155,040
Klawock City	90,000	12,500	77,500
Kodiack Island Borough	400,000		400,000
Nenana City	350,000	37,291	312,709
Nome	2,500,000	133,464	2,366,536
**Nome-Beltz Regional	3,500,000	0	3,500,000
Pelican	650,000	61,898	588,102
St. Marys	250,000	16,125	233,875
Wrangell	2,750,000	412,500	2,337,500
Total	14,963,770		13,433,572
Arizona:			
Alchesay H.S. No. 2	2,601,152	38,614	2,562,538
Chinle No. 24	12,000,000	397,253	11,602,747
Ganado No. 19	4,180,427	3,194	4,177,233
Gila Bend	1,000,000	370,542	629,458
Indian Oasis No. 40	4,834,100	12,247	4,821,853
Kayenta No. 27	1,750,000	17,500	1,732,500
Moccasin No. 10	120,000	9,618	110,382
Monument Valley	600,000	207,500	392,500
Page No. 8	1,500,000	900,000	600,000
Parker No. 27	1,302,646	73,105	1,229,541
Puerco No. 18	850,000	110,000	740,000
Sacaton No. 18	1,400,000	65,850	1,334,150
Sunnyside No. 12	3,150,000	943,159	2,206,841
Tuba City No. 15	13,678,170	36,311	13,641,859
Whiteriver Elem No. 20	3,782,636	38,614	3,744,022
Window Rock No. 8	750,000	0	750,000
Total	53,499,131		50,275,624
California:			
Bishop Elementary	300,000	828,209	0
Mountain Empure Unified	1,600,000	1,000,000	600,000
Princeton Junction Unified	600,000	900,000	0
Round Valley Unified	409,073	439,676	0
San Pasqual Valley	200,000	246,206	0
Valley Center Union	1,250,000	554,377	695,623
Total	4,359,073		1,295,623
Idaho: Pocatello No. 25 (total)	6,000,000	2,251,970	3,748,030
Iowa: Tama	300,000	745,584	0
Kansas:			
Mayetta-Hoyt No. 337	860,000	0	860,000
Powhatton No. 510	750,000	181,933	568,067
Total	1,610,000		1,428,067
Michigan:			
Bark River-Harris	265,000	0	265,000
Baraga Township	110,000	365,250	0
Brimley No. 17-140	399,500	877,330	311,767
L'Anse Township	364,000	912,500	0
Total	1,138,500		576,767
Minnesota:			
Nett Lake No. 707	150,000	1,470	148,530
Park Rapids No. 309	425,000	212,500	212,500
Red Lake No. 38	1,000,000	6,545	993,455
Total	5,662,936		1,354,485

District	Estimated cost of facilities	Less ⅓ local resources	Need (computed)
Montana:			
Babb	$300,000	$74,882	$225,118
Box Elder	100,000	32,724	67,276
Brockton	1,297,000	17,706	1,279,294
Browning	14,687,681	0	14,687,681
Charlo	300,000	27,500	272,500
Edgar	1,000,000	85,839	914,161
Elmo	200,000	9,808	190,192
Frazer	1,120,000	59,896	1,060,104
Hardin	750,000	573,992	176,078
Harlem	1,000,000	209,223	790,777
Hays and Lodge Pole	2,788,825	8,048	2,780,777
Heart Butte	2,146,400	6,415	2,139,985
Hot Springs	262,000	0	262,000
Lame Deer	500,000	19,000	481,000
Lodge Grass	3,200,000	468,674	2,731,326
Poplar	800,000	250,000	550,000
Pryor	300,000	44,758	255,242
Ronan	1,000,000	291,489	708,511
St. Ignacius	592,240	77,018	515,222
Wolf Point	350,000	377,219	0
Total	32,694,146		30,087,244
Nebraska:			
Santee No. C-5	900,000	11,375	888,625
Walthill	50,000	160,852	0
Winnebago	300,000	64,468	235,532
Total	1,250,000		1,124,157
Nevada:			
Carson City	4,000,000	1,072,226	2,927,774
Churchill County	4,500,000	2,193,250	2,306,750
Clark County	110,000	50,743,020	0
Elko County	400,000	3,731,560	0
Humboldt	243,000	1,477,786	0
Lyon County	12,149,183	2,874,592	9,274,591
Mineral County	412,500	750,000	0
Nye County	225,000	1,438,650	0
Total	22,039,683		14,509,115
New Mexico:			
Bernalillo No. 1	1,133,000	180,000	953,000
Central Consolidated	2,080,000	786,719	1,293,281
Dulce Independent No. 1	800,000	300,000	500,000
Gallup-McKinley No. 1	33,643,091	266,189	33,376,902
Magdalena No. 12	501,600	15,000	486,600
Total	38,157,691		36,609,783
North Dakota:			
Dunseith No. 1	875,000	14,500	860,500
Eight Mile School No. 6	750,000	181,000	569,000
New Town No. 1	114,532	25,500	89,032
St. Johns No. 3	2,537,500	17,784	2,520,716
Total	4,278,032		4,039,248
Oklahoma:			
Anadarko I-13	130,000	3,853	126,147
Bell No. 33	355,000	8,808	346,192
Boone No. D-56	40,000	19,980	20,020
Canton	750,000	229,597	520,403
Carnegie ISD-33	800,000	204,241	595,759
Castle No. 19	22,000	4,673	17,327
Cottonwood D-4	10,000	24,669	0

District	Estimated cost of facilities	Less ½ local resources	Need (computed)
Oklahoma—Continued			
Dahlonegah No. 29	$16,000	$7,768	$8,232
Fillmore D–34	111,765	5,883	105,882
Graham I–32	48,000	29,308	18,692
Grand View No. 34	40,000	13,000	27,000
Greasy No. 32	50,000	12,786	37,214
Harmon Independent No. 66	125,000	158,475	0
Hulbert No. 17	8,000	8,400	0
Indiahoma No. 2	103,000	36,500	66,500
Indian Camp D–23	40,000	99,953	0
Justice D–54	25,000	17,632	7,368
Kansas I–3	250,000	6,500	243,500
Kenwood D–30	37,000	2,925	34,075
Marble City D–35	80,000	22,500	57,500
Maryetta No. 22	50,000	16,173	33,827
Oaks Mission	150,000	3,000	147,000
Pleasant Grove I–5	98,000	31,500	66,500
Ryal D–3	200,000	7,700	192,300
Rocky Mountain D–24	23,800	5,527	18,273
Salina I–16	258,796	1,500	257,296
Shady Grove No. 26	30,000	8,900	21,100
Smithville	170,000	25,000	145,000
Spavinaw D–21	18,000	27,498	0
Stilwell I–25	655,000	101,500	553,500
Stony Point	42,000	14,256	27,744
Tenkiller No. 66	250,000	54,500	195,500
Watonga Independent	144,000	9,708	134,292
Wickliffe D–35	30,000	5,693	24,307
Wolf Independent No. 13	93,000	27,288	65,712
Total	5,255,361		4,114,162
Oregon:			
Jefferson City No. 509–J	231,400	0	231,400
Umatilla County	600,000	5,900,000	0
Total	831,400		231,400
South Dakota:			
Andes Central Independent No. 103	700,000	456,821	243,179
Todd County Independent	1,160,000	649,114	5,108,860
Shannon City Independent No. 1	725,000	309,850	415,150
Sisseton Independent No. 1	4,500,000	584,140	3,915,860
Smee Independent No. 5	347,000	39,584	307,416
Summit Independent No. 19	75,000	6,843	68,157
Waubay Independent No. 184	5,075,000	327,900	4,747,100
West River No. 18	300,000	745,893	0
White River Independent No. 29	1,500,000	507,269	992,731
Wilmot Independent No. 2	$2,400,000	$340,000	$2,060,000
Winner Independent No. 110	35,000	6,776	28,224
Total	17,317,000		17,886,677
Utah: San Juan (total)	3,000,000	905,000	2,095,000
Washington:			
Bellingham	2,875,000	4,537,500	0
Brewster	750,000	293,000	457,000
Cape Flattery No. 401	1,525,000	1,008,984	516,016
Curlew	900,000	145,000	755,000
Cusick	500,000	146,567	353,433
Grand Coulee	500,000	728,500	0
Hood Canal	200,000	650,000	0
Inchelium No. 70	350,000	125,524	224,476
Marysville	800,000	782,500	17,500
Mary Walker	1,450,000	557,000	893,000
Mount Adams No. 209	2,052,000	468,931	1,581,069
Nespelem No. 14	10,000	63,979	0
North Beach	240,000	2,661,000	0
Oaksville No. 400	840,000	323,704	516,296
Port Angeles	3,500,000	4,664,648	0
Quillayute Valley	1,000,000	1,221,905	0
Taholah No. 77	860,000	34,526	825,474
Thurston	150,000	3,150,000	0
Toppenish	1,175,000	920,522	254,478
Quinalt	900,000	497,500	402,500
Wellpinit No. 49	250,000	30,574	219,426
Total	20,827,000		7,015,668
Wisconsin:			
Bayfield Jt. No. 1	100,000	50,724	49,276
Bowler Jt. No. 1	700,000	418,955	281,045
Lakeland Union H.S.	500,000	4,542,000	0
Wisconsin Dells Jt. No. 1	2,200,000	3,875,715	0
Total	3,500,000		330,321
Wyoming:			
Arapaho No. 38	100,000	10,000	90,000
Fort Washakie No. 21	325,000	139,198	185,802
Mill Creek Elem. No. 14	355,000	21,000	334,000
Wind River No. 6	500,000	583,393	0
Total	1,280,000		609,802
Grand total	237,963,723		190,764,745

COMPUTED NEEDS OF STATES BY IMPACT

State	Major	Heavy	Minor	Unusual
Alaksa	$8,848,820	$1,925,000	$1,109,557	0
Arizona	44,693,085	0	2,679,034	0
California	0	0	141,247	0
Idaho	0	0	1,496,060	0
Iowa	0	0	0	0
Kansas	0	386,135	860,000	0
Michigan	0	0	489,034	0
Minnesota	5,221,906	0	0	0
Montana	26,047,642	828,322	1,362,227	0
Nebraska	1,048,316	0	0	0
Nevada	0	0	0	$8,369,048
New Mexico	$35,061,876	0	0	0
North Dakota	3,348,932	$451,532	0	0
Oklahoma	934,337	1,010,636	$1,296,886	0
Oregon	0	0	231,400	0
South Dakota	734,909	3,818,183	1,802,764	$4,419,200
Utah	0	1,200,000	0	0
Washington	2,193,891	0	1,316,867	182,593
Wisconsin	0	0	0	0
Wyoming	439,605	0	0	0
Total	128,573,319	9,619,808	12,785,076	12,970,841

WYOMING INDIAN HIGH SCHOOL,
Ethete, Wyoming, January 18, 1973.

NATIONAL INDIAN TRAINING AND RESEARCH CENTER,
Tempe, Ariz.

Attention: Francis McKinley, Executive Director

Enclosed are estimates for our building needs. We are not a public school yet, but we are involved in redistricting Fremont County, Wyoming, under the State law.

The State committee have recommended that the Reservation have a district and we hope to start operating a Public High School within the next 4–5 years.

We are operating a high school funded by the Bureau of Indian Affairs on year to year basis, until a public high school can be created.

We have some buildings now, but are not adequate for us to gain accreditation and are still working for more facilities so we can offer our Indian Students Facilities needed to fulfull their educational needs to live in the modern society.

Sincerely,

AL REDMAN, *Project Director.*

Enclosures.

Table on the Wyoming Indian high school (Ethete, Wy.) Current enrollment data: 86 (100% Indian):

Total cost estimate	$1,075,000
Less available resources	0
Total computed need	1,075,000

PERTINENT DATA CONCERNING LATE REPORTING DISTRICTS

District	Enrollment: Current	Enrollment: (percent Indian)	Estimated costs	Available resources	Computed need	Priority index
Minnesota:						
Independence No. 115	935	36	$1,272,000	$53,421	$1,218,579	70
Independence No. 576	775	5	2,300,000	1,220,000	1,080,000	10
Red Lake[1]					4,087,936	
New Mexico:						
Espanola No. 45	5,927	6	2,072,000	850,000	1,222,000	12
Grants No. 3	4,929	21	2,100,000	225,000	1,825,000	44
Los Lumas No. 1	3,450	9	1,750,000	280,000	1,500,000	20
Ruidosa	910	7	2,500,000	500,000	3,000,000	28
Total			11,994,000		12,933,515	

[1] Upgraded original need estimated.

	162 districts	Plus total needs of 7 late reporting districts
Cost—estimate	$237,963,723	$254,045,659
Computed need (less available resources)	163,949,044	276,882,559
Computed need (less ½ available resources)	190,764,745	296,401,892

Note: The survey data of the 6 late reporting districts and the 1 district upgrading its original need estimate affect the total construction aid needs as shown in the table.

DISTRICTS IN STATES REPORTING NO CONSTRUCTION AID NEEDED

State	Number of State districts reporting	Needs met by local taxpayers	Needs met by prior Public Law 815 grants
Alaska	8	8	2
Arizona	12	12	5
California	6	6	2
Colorado	2	2	2
Idaho	1	1	1
Michigan	1	1	0
Minnesota	13	13	0
Montana	3	3	0
Nebraska	1	1	0
Nevada	1	1	1
New Mexico	3	3	2
North Dakota	1	1	1
Oklahoma	8	8	5
South Dakota	5	5	1
Washington	10	10	2
Wisconsin	9	9	1
Wyoming	2	2	1
Total	86	86	26

NATIONAL INDIAN TRAINING AND RESEARCH CENTER,
Temple, Ariz., February 28, 1973.

DEAR SUPERINTENDENT OF SCHOOLS: The U.S. Congress, through the Bureau of Indian Affairs, has authorized a survey of the construction needs of public schools enrolling Indian children and which are eligible for certain Federal funding. We are pleased to advise you of our being chosen to make this survey.

Our survey design is developed primarily to present your needs and your recommendations in a comprehensive report along with other school superintendents in the 23-state area. If you have or expect to have (within 5 years), construction aid needs related to the education of Indian children, please complete the brief questionnaire schedules in the attached forms. If no construction aids are anticipated (within 5 years) in your district, we would appreciate very much your completing the last page of this questionnaire.

Please complete at your earliest convenience and return to your State Department of Education unless otherwise instructed by personnel from that office. Hopefully, we can receive your report of needs by April 1, 1973.

If the terminology used in these forms is different from that used in your state, please adapt our form to conform to your state terminology. We are thinking particularly of ADA vs. ADM or ANB, assessed valuation vs. taxable valuation in some states.

Please feel free to call us about any questions you may have concerning the survey. To better serve your interest, we solicit your timely assistance and cooperation.

Sincerely yours,

FRANCIS MCKINLEY, *Executive Director.*

Enclosures.

CONSTRUCTION AID SURVEY OF PUBLIC SCHOOLS ENROLLING INDIAN CHILDREN

Basic Data Schedule:

State:

School District: (Give legal name & number):

Mailing Address:

Telephone Number:

Grades taught. (circle) K 1 2 3 4 5 6 7 8 9 10 11 12.

Enrollment, current year (1972–73):

Total (all students).

Total (JOM Indians).

Percent Indian.

(Use total district enrollment. If unusual Indian impacts exist in certain attendance units of district explain on back of page).

Enrollment, projected for year 1977–78:

Total (all students).

Total (JOM Indians).

Percent Indian.

(Based on growth pattern or other known factors. If other factors explain on back of page).

Ability to finance needed construction:

Land area size of district (acres or sq. miles).

Indian-owned non-taxable land in district (acres or sq. miles).

Percent Indian land in district.

Total amount of assessed valuation in district.

Assessed valuation per child in ADA or ADM.

State average assessed valuation per child (ADA or ADM).

Percent above or below State average.

(For valuation data use prior year published data for similar type districts. If information not available, leave blank for State personnel to complete).

Bonding Capacity:

Amount allowed by State law (actual and 1 yr. anticipated).

Present bonded indebtedness (actual and 1 yr. anticipated).

Unused bonding capacity (actual and 1 yr. anticipated).

Does the State have a construction aid program? Yes; No.

If yes, what is expected for your district?

Effort to finance education:

Total district levy last year (1971–72) (mills or amount per $100 valuation).

Total levy current year (1972–73) (mills or amount per $100 valuation).

Name and Title of Person Completing Forms:

Name:

Title:

Date:

CONSTRUCTION AID NEEDS

Several construction units may be included in a single project. Use an additional page for each separate project.

Project: (Briefly describe each construction unit needed in Project).

Type of construction: (Check all that apply).

New facility.

Expansion of existing facility.

Remodeling.

Other (Specify):

When needed:

Now?

Within years?

Funding Requirement: $———.

Amounts available:

By cash on hand $———.

Bonds (authorized, not sold) $———.

Unused bonding capacity $———.

Other (list) $———.

Total available $———.

Justification of Construction Aid Needs (See Note below).

To house expanded enrollment.

To replace temporary buildings.

To meet health and safety standards.

To develop housing for new and innovative programs.

Will enable District to enroll ——— children now in Federal boarding schools.

Other (specify):

Note: If you already have a brochure of a plan that portrays your construction needs, we would greatly appreciate a copy.

Comments on Justification:

Note: To assist us in the development of priority tables, it is necessary to complete the following:

Total estimated membership of all children (as of end of increase period—1977–78):

(Less) Total normal capacity (of usable or available school facilities):

Total number of unhoused children:

FUNDING POSSIBILITIES AND RECOMMENDATIONS

If PL 815, as presently operated, was adequately funded, do you believe your needed funds could be secured under this Federal Aid program? Yes; No.

Comment:

If PL 815 was amended or altered, do you believe your construction aid need could be then met under PL 815?

Yes—How Amended:

No—Why not:

In addition to PL 815, some school districts, on occasion, have had their critical needs met by special requests to the Congress for inclusion of construction funds in the regular BIA budget. In other instances impact needs have been met by transfer of surplus BIA facilities to the school district under JOM Act authorities. In your opinion, do these latter methods (or a combination with PL 815) provide a better means of meeting your requirements?

Comment:

Or is there some new approach through new Federal legislation that you would recommend to meet justifiable Indian impact requirements.

Comment:

(If more space is needed, use back of page.)

TO BE COMPLETED ONLY BY THOSE SCHOOLS NOT NEEDING FEDERAL CONSTRUCTION AID

The school construction needs in our district have been met by: (Check all that apply)

Local taxpayers through bonding programs.

State construction aid.

Prior PL 815 grants.

The B.I.A. through transfer of surplus buildings; through construction grants designated by the Congress.

Other (specify):

CONSTRUCTION AID SURVEY OF PUBLIC SCHOOLS ENROLLING INDIAN CHILDREN

Supplemental basic data schedule (from State education records)

School district (name and number)

ENROLLMENT DATA (FOR PAST 5 YEARS)

School year	Total (all)	JOM Indians	Percent Indians	Growth rate (percent)
1967–68				
1968–69				
1969–70				
1970–71				
1971–72				

EFFORT TO FINANCE EDUCATION (USE STATE AVERAGE FOR SIMILAR TYPE DISTRICTS)

School year	Tota levy	State average	Above or below State average
1967–68			
1968–69			
1969–70			
1970–71			
1971–72			

Comments by State personnel (especially comments that would assist us in assigning priorities)

Person completing questionnaire:

(Name)

(Title)

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. HUGHES). Is there further morning business? If not, morning business is concluded.

QUORUM CALL

Mr. PASTORE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATE, JUSTICE, COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1974—CONFERENCE REPORT

Mr. PASTORE. Mr. President, while I am waiting for our counterpart on the Subcommittee on Appropriations for the Departments of State, Justice, Commerce, and the judiciary, I think that we can indulge in some preliminaries which I think will be agreed to by the other side without any objection.

Therefore at this time, Mr. President, I submit a report of the committee of conference on H.R. 8916, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HUGHES). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 8916) making appropriations for the Departments of State, Justice, and Commerce, the Judiciary, and related agencies, for the fiscal year ending June 30, 1974, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in House proceedings of the CONGRESSIONAL RECORD of November 8, 1973, at page H9720.)

Mr. PASTORE. Mr. President, I would like to point out briefly the major changes from the Senate-passed bill, but before doing so, I ask unanimous consent that a tabulation of the fiscal year 1973 appropriations and the House, Senate, and conference committee allowances for fiscal year 1974 be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PASTORE. Mr. President, the act making appropriations for the Departments of State, Justice, Commerce, the judiciary, and related agencies, as it passed the Senate, provided a total of $4,459,478,250 in new obligational authority, which sum was a reduction of $63,422,750 below the revised budget estimates.

The conference committee's recommendation provides a total of $4,466,012,000 in new obligational authority. This is an increase of $6,533,750 to the Senate allowance and is $313,066,000 over the House allowance. The conference total represents a reduction—and this is important, Mr. President—of $56,889,000 under the revised budget estimates totalling $4,522,901,000, which sum included $267,821,000 in budget amendments which came directly to the Senate and were not considered by the House.

Mr. President, I would like to now briefly point out the major changes from the Senate-passed bill.

DEPARTMENT OF STATE

For the Department of State, the conferees agreed on a total of $618,599,000, which amount is $12,076,250 above the Senate bill, $22,988,000 above the House allowance, and $14,491,000 below the budget. The Senate considered $24,000,000 in budget amendments not presented to the House.

For salaries and expenses, the conferees recommend $302,800,000, which sum is the Senate allowance and is $1,597,000 below the budget estimate, but is $20,300,000 above the House. Of the total approved, $19,700,000 was contained in budget amendments not considered by the House to combat terrorist activities against American personnel abroad. Increases for the same purposes were also approved in the appropriation accounts for acquisition, operations, and maintenance of buildings abroad—foreign currency account, $100,000 and missions to international organizations, $200,000. This $300,000 was also contained in budget amendments not considered by the House.

For contributions to international organizations, the conference committee recommends $200,000,000, which sum is $14,642,250 above the Senate bill and is a reduction of $2,287,000 below the budget estimate and House allowance. The reduction is to be applied to the U.S. contribution to the International Labor Organization.

For international conferences and contingencies, the recommendation totals $4,500,000, which sum is $300,000 below the Senate allowance, is $686,000 below the budget estimate, and is the House allowance.

For the mutual educational and cultural exchange activities, the committee of the conference recommends $49,800,000 which is $2,000,000 below the Senate bill, $2,000,000 above the House allowance, and $4,250,000 below the budget estimate.

For the Center for Cultural and Technical Interchange, the conferees recommend $6,700,000, which sum is $160,000 below the Senate allowance and budget estimate, and is $200,000 above the House allowance.

The conferees agreed to delete, without prejudice, Senate amendment No. 15 expressing the sense of the Senate with regard to the treatment of minorities in the Soviet Union.

DEPARTMENT OF JUSTICE

For the Department of Justice, the committee on the conference agreed to a total of $1,842,262,000, which amount is $2,000,000 below the Senate bill, $18,562,000 below the revised budget estimate, and $34,150,000 above the House allowance. With regard to the Senate increase over the House, $24,475,000 was contained in budget amendments submitted directly to the Senate and not considered by the House.

The committee on the conference approved the funding for the new Drug Enforcement Administration and a new Narcotics Division as requested in the budget amendments and approved by the Senate.

For the Antitrust Division, the conferees recommend $13,019,000, the budget estimate and House allowance, and $1,000,000 below the Senate allowance,

For the Community Relations Service, the committee of conference recommends $2,818,000, the budget estimate and House allowance of $1,000,000 below the Senate allowance.

With regard to the Federal Bureau of Investigation, the conferees agreed to delete the language added by the Senate—amendment No. 21—regarding the exchange of identification records with officials of the federally chartered or insured banking institutions and officials of State and local governments for purposes of employment and licensing, where State law so requires.

The House conferees took the position that with the exception of the proviso governing the exchange of arrest records, to which they would not agree, the balance of the Senate language as contained in the fiscal 1973 Appropriation Act (Public Law 92–544) was permanent legislation. The conferees understand that this matter is before the Judiciary Committees of the House and Senate and urge expeditious consideration thereof.

For the Law Enforcement Assistance Administration, the committee of conference recommends a total of $870,675,000, the Senate allowance, an increase of $4,675,000 in the House allowance and $15,449,000 below the budget estimate.

Under general provisions, Department of Justice, the conferees agreed to delete a proviso—amendment No. 26—added by the Senate with regard to the anual reimbursement to the Treasury from funds available to the District of Columbia to cover a portion of the cost of U.S. attorneys and U.S. marshals performing services for the District.

DEPARTMENT OF COMMERCE

For the Department of Commerce, the committee of the conference recommends a total of $1,223,578,000, which amount is $4,274,000 below the Senate bill, $12,586,000 above the revised budget estimate, and $261,774,000 above the House allowance. With regard to the Senate increase over the House allowance, $217,446,000 in budget amendments were submitted to the Senate and not considered by the House.

For the programs of the Economic Development Administration, the committee of the conference recommends $203,000,000, the total of the Senate allowance and budget amendments, submitted

to the Senate and not considered by the House. Also approved was the Senate proviso prohibiting the phaseout or discontinuance of EDA programs, including the regional action planning commissions.

For the regional action planning commissions, the conferees recommend $42,000,000, the sum contained in the Senate-passed bill. This item was not considered by the House.

For the Social and Economic Statistics Administration, the committee of conference recommends $17,800,000, which is the amount contained in the Senate bill, is an increase of $3,000,000 over the House allowance, and is a reduction of $9,340,000 in the revised budget estimate. The Senate increase provides $1,800,000 for a survey of the population requested by the Treasury Department in connection with the distribution of general revenue sharing and $1,200,000 in new obligational authority to initiate a census of agriculture.

For the Domestic and International Business Administration, the conference recommends $49,000,000, the Senate allowance, which is $848,000 under the budget estimate and $500,000 over the House.

For the National Oceanic and Atmospheric Administration, the committee of conference agreed on a total of $353,642,000 for this agency, or a reduction of $4,274,000 in the Senate bill of $357,916,000. The conference agreement is distributed as follows:

First. For operations, research, and facilities, $341,642,000, an increase over the House allowance of $1,274,000.

Second. For coastal zone management, the recommendation is $12,000,000, a reduction of $3,000,000 below the Senate recommendation of $15,000,000. The House did not consider this item.

THE JUDICIARY

For representation by court-appointed counsel and operation of defender organizations, the conferees recommend a total of $16,500,000, which sum is $1,000,000 below the Senate bill and $1,000,000 above the House allowance.

For court-appointed counsel in the District of Columbia, the conferees recommend $1,000,000, a reduction of $1,000,000 below the Senate amendment and an increase in the same amount over the House. The conferees agreed that further funding for this activity will be chargeable to the District of Columbia.

RELATED AGENCIES

For the Arms Control and Disarmament Agency, the conferees recommend $7,735,000, a decrease of $200,000 in the Senate bill, an increase of $800,000 over the House, and which sum is the budget estimate. The $800,000 was contained in a budget amendment not considered by the House.

For the Commission on Civil Rights, the conferees recommend a total of $5,700,000, a reduction of $114,000 below the Senate allowance, $134,000 above the House allowance, and $114,000 below the budget estimate.

For the Commission on the Organization of the Government for the Conduct of Foreign Policy, the committee of conference recommends $1,050,000, which sum is $50,000 below the Senate allowance and was contained in a budget amendment of $1,100,000 not considered by the House. In addition, the conferees approved the Senate language to continue this appropriation available until June 30, 1975.

For the Equal Employment Opportunity Commission, the conferees recommend $43,000,000. This sum is a reduction of $3,934,000 in the Senate allowance, is $3,000,000 over the House allowance, and is $3,934,000 below the budget estimate. The conferees approved a limitation of $1,700,000 that can be used to contract with State and local agencies.

For the Marine Mammal Commission, the committee of conference recommends a total of $412,000, which sum is $413,000 below the Senate allowance and budget estimate and is the House allowance.

For the Tariff Commission, the conferees recommend a total of $7,100,000, which sum is $200,000 below the Senate allowance, $100,000 above the House allowance, and $200,000 below the budget estimate.

For the U.S. Information Agency, the conferees recommend a total of $207,414,000 which sum is $6,714,500 above the Senate allowance, is $12,008,000 below the House allowance, and is $24,440,000 below the budget estimate.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1973 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1974

TITLE I—DEPARTMENT OF STATE

[Note: All amounts are in the form of "appropriations" unless otherwise indicated]

Item	New budget (obligational) authority fiscal year 1973 (enacted to date)[1]	Budget estimates of new (obligational) authority fiscal year 1974	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
Administration of Foreign Affairs:					
Salaries and expenses	$269,168,500	$304,397,000	$282,500,000	$302,800,000	$302,800,000
Representation allowances	993,000	1,263,000	1,125,000	1,263,000	1,200,000
Acquisition, operation, and maintenance of buildings abroad	30,000,000	23,169,000	21,173,000	21,173,000	21,173,000
Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)	6,920,000	5,498,000	5,038,000	5,138,000	5,138,000
Emergencies in the diplomatic and consular service	2,100,000	2,100,000	2,100,000	2,100,000	2,100,000
Payment to Foreign Service retirement and disability fund	3,808,000	2,972,000	2,972,000	2,972,000	2,972,000
Total, administration of foreign affairs	312,989,500	359,399,000	314,908,000	335,446,000	335,383,000
International Organizations and Conferences:					
Contributions to international organizations	185,357,750	202,287,000	202,287,000	185,357,750	200,000,000
Missions to international organizations	5,242,400	5,734,000	5,525,000	5,725,000	5,725,000
International conferences and contingencies	3,650,000	5,186,000	4,500,000	4,800,000	4,500,000
International trade negotiations		1,743,000	1,500,000	1,743,000	1,700,000
Total, international organizations and conferences	194,250,150	214,950,000	213,812,000	197,625,750	211,925,000
International Commissions:					
International Boundary and Water Commission, United States and Mexico:					
Salaries and expenses	4,210,000	4,284,000	4,284,000	4,284,000	4,284,000
Construction	20,246,000	6,800,000	3,800,000	3,800,000	3,800,000
American sections, international commissions	748,000	990,000	950,000	950,000	950,000
International fisheries commissions	3,292,000	3,517,000	3,517,000	3,517,000	3,517,000
Total, international commissions	28,496,000	15,591,000	12,551,000	12,551,000	12,551,000
Educational Exchange:					
Mutual educational and cultural exchange activities	45,250,000	54,050,000	47,800,000	51,800,000	49,800,000
Center for cultural and technical interchange between East and West	6,200,000	6,860,000	6,500,000	6,860,000	6,700,000
Total, educational exchange	51,450,000	60,910,000	54,300,000	58,660,000	56,500,000
Other: Payment to International Center		2,200,000		2,200,000	2,200,000
Total, title I, Department of State	587,185,650	[2]633,050,000	595,571,000	606,482,750	618,559,000

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1973 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1974—Continued

TITLE II—DEPARTMENT OF JUSTICE

[Note: All amounts are in the form of "appropriations" unless otherwise indicated]

Item	New budget (obligational) authority fiscal year 1973 (enacted to date) [1]	Budget estimates of new (obligational) authority fiscal year 1974	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
Legal Activities and General Administration:					
Salaries and expenses, general administration	$14,200,000	$16,427,000	$19,100,000	$15,834,000	$15,834,000
Salaries and expenses, general legal activities	46,800,000	50,253,000	47,200,000	50,111,000	50,111,000
Salaries and expenses, Antitrust Division	12,836,000	13,019,000	13,019,000	14,019,000	13,019,000
Salaries and expenses, U S attorneys and marshals	93,660,000	99,528,000	99,300,000	99,300,000	99,300,000
Fees and expenses of witnesses	11,000,000	13,000,000	12,500,000	12,500,000	12,500,000
Salaries and expenses, Community Relations Service	6,700,000	2,818,000	2,818,000	3,818,000	2,818,000
Total, legal activities and general administration	185,196,000	195,045,000	193,937,000	195,582,000	193,582,000
Federal Bureau of Investigation: Salaries and expenses	358,915,000	366,506,000	366,506,000	366,506,000	366,506,000
Immigration and Naturalization Service: Salaries and expenses	137,484,000	139,698,000	139,698,000	139,698,000	139,698,000
Federal Prison System:					
Salaries and expenses, Bureau of Prisons	118,317,000	129,021,000	128,271,000	128,271,000	128,271,000
Buildings and facilities	42,616,000	14,800,000	14,800,000	14,800,000	14,800,000
Support of U.S. prisoners	19,500,000	22,400,000	21,500,000	21,500,000	21,500,000
Total, Federal prison system	180,433,000	166,221,000	164,571,000	164,571,000	164,571,000
Law Enforcement Assistance Administration: Salaries and expenses	841,397,000	886,124,000	866,000,000	870,675,000	870,675,000
Drug Enforcement Administration: Salaries and expenses		107,230,000		107,230,000	107,230,000
Bureau of Narcotics and Dangerous Drugs: Salaries and expenses	74,653,000		77,400,000		
Total, title II, Department of Justice	1,778,078,000	[3] 1,860,824,000	1,808,112,000	1,844,262,000	1,842,262,000

TITLE III—DEPARTMENT OF COMMERCE

General Administration:					
Salaries and expenses	$8,064,543	$8,000,000	$8,000,000	$8,000,000	$8,000,000
Administration of economic development assistance programs		21,000,000		19,000,000	19,000,000
Special foreign currency program	1,400,000	2,940,000	2,940,000	2,940,000	2,940,000
Total, General Administration	9,464,543	31,940,000	10,940,000	29,940,000	29,940,000
Social and Economic Statistics Administration:					
Salaries and expenses	34,205,000	38,800,000	38,300,000	38,300,000	38,300,000
Periodic censuses and programs	14,579,500	27,140,000	14,800,000	17,800,000	17,800,000
Total, Social and Economic Statistics Administration	48,784,500	65,940,000	53,100,000	56,100,000	56,100,000
Economic Development Administration:					
Development facilities	220,000,000	159,000,000		159,000,000	159,000,000
Industrial development loans and guarantees	50,000,000	5,000,000		5,000,000	5,000,000
Planning, technical assistance, and research	31,468,000	20,000,000		20,000,000	20,000,000
Operations and administration	24,263,000				
Total, Economic Development Administration	325,731,000	184,000,000		184,000,000	184,000,000
Reional Action Planning Commissions: Regional development programs	41,672,000	20,000,000		42,000,000	42,000,000
Domestic and International Business Administration:					
Salaries and expenses	47,088,900	49,848,000	48,500,000	49,000,000	49,000,000
Participation in U.S. expositions	11,500,000				
Total, Domestic and International Business Administration	58,588,900	49,848,000	48,500,000	49,000,000	49,000,000
Foreign Direct Investment Regulation: Salaries and expenses	2,600,000	2,600,000	2,600,000	2,600,000	2,600,000
Minority Business Enterprise: Minority business development	63,934,000	35,231,000	35,231,000	35,231,000	35,231,000
U.S. Travel Service: Salaries and expenses	9,000,000	9,279,000	9,000,000	9,000,000	9,000,000
National Oceanic and Atmospheric Administration:					
Operations, research and facilities	385,430,457	343,089,000	340,368,000	342,916,000	341,642,000
Coastal zone management		5,000,000		15,000,000	12,000,000
Administration of Pribilof Islands	3,232,000	3,113,000	3,113,000	3,113,000	3,113,000
Fishermen's Guaranty Fund	61,000	61,000	61,000	61,000	61,000
Total, National Oceanic and Atmospheric Administration	388,723,457	351,263,000	343,542,000	361,090,000	356,816,000
Science and Technology: Scientific and technical research and services	145,042,100	130,864,000	129,864,000	129,864,000	129,864,000
Maritime Administration:					
Ship construction	455,000,000	275,000,000	275,000,000	275,000,000	275,000,000
Op erating-differential subsidies (appropriation to liquidate contract authority)	(232,000,000)	(221,515,000)	(221,515,000)	(221,515,000)	(221,515,000)
Research and development	29,000,000	20,000,000	19,000,000	19,000,000	19,000,000
Operations and training	34,534,000	35,027,000	35,027,000	35,027,000	35,027,000
Total, Maritime Administration	518,534,000	330,027,000	329,027,000	329,027,000	329,027,000
Total, title III, Department of Commerce	1,612,074,500	[4] 1,210,992,000	961,804,000	1,227,852,000	1,223,578,000

TITLE IV—THE JUDICIARY

Item	New budget (obligational) authority fiscal year 1973 (enacted to date) [1]	Budget estimates of new (obligational) authority fiscal year 1974	New budget (obligational) authority recommended in House bill	New budget (obligational) authority recommended in Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
Supreme Court of the United States:					
Salaries	$3,784,000	$3,964,000	$3,964,000	$3,964,000	$3,964,000
Printing and binding Supreme Court reports	416,000	515,000	515,000	515,000	515,000
Miscellaneous expenses	423,000	560,000	560,000	560,000	560,000
Automobile for the Chief Justice	14,600	15,000	15,000	15,000	15,000
Books for the Supreme Court	55,000	63,000	63,000	63,000	63,000
Care of the building and grounds	1,014,000	1,169,000	1,100,000	1,100,000	1,100,000
Total, Supreme Court of the United States	5,706,600	6,286,000	6,217,000	6,217,000	6,217,000
Court of Customs and Patent Appeals: Salaries and expenses	684,000	692,000	677,000	677,000	677,000
Customs Court: Salaries and expenses	2,341,000	2,341,000	2,341,000	2,341,000	2,341,000
Court of Claims: Salaries and expenses	2,139,000	2,154,000	2,154,000	2,154,000	2,154,000
Courts of appeals, district courts, and other judicial services:					
Salaries of judges	27,000,000	27,300,000	27,300,000	27,300,000	27,300,000
Salaries of supporting personnel	77,208,000	85,326,000	83,372,000	83,522,000	83,450,000
Representation by court-appointed counsel and operation of defender organizations	17,472,000	16,000,000	15,500,000	17,500,000	16,500,000
Fees of jurors	18,218,000	18,500,000	18,500,000	18,500,000	18,500,000
Travel and miscellaneous expenses	10,626,000	13,013,000	12,909,000	12,909,000	12,909,000
Administrative Office of the U.S. Courts	3,682,000	4,247,000	3,906,000	3,906,000	3,906,000
Salaries and expenses of U.S. magistrates	6,690,000	7,837,000	7,837,000	7,837,000	7,837,000
Salaries of referees (special fund)	6,755,000	6,991,000	6,991,000	6,991,000	6,991,000
Expenses of referees (special fund)	12,895,000	12,780,000	12,660,000	12,660,000	12,660,000
Commission on Revision of Federal Court Appellate System of the United States	255,000				
Total, courts of appeals, district courts, and other judicial services	180,802,000	191,994,000	188,975,000	191,125,000	190,053,000
Federal Judicial Center Salaries and expenses	1,541,000	2,062,000	2,000,000	2,000,000	2,000,000
Commission on Bankruptcy Laws of the United States Salaries and expenses (special fund)	426,000				
Total, title IV, the judiciary	193,642,600	205,529,000	202,364,000	204,514,000	203,442,000

TITLE V—RELATED AGENCIES

American Battle Monuments Commission: Salaries and expenses	$3,711,000	$3,800,000	$3,800,000	$3,800,000	$3,800,000
Arms Control and Disarmament Agency: Arms control and disarmament activities	10,000,000	[5] 7,735,000	6,935,000	7,935,000	7,735,000
Commission on American Shipbuilding: Salaries and expenses	550,000	205,000	205,000	205,000	205,000
Commission on Civil Rights: Salaries and expenses	4,949,000	5,814,000	5,566,000	5,814,000	5,700,000
Commission on the Organization of the Government for the Conduct of Foreign Policy: Salaries and expenses	200,000	[6] 1,100,000		1,100,000	1,050,000
Department of the Treasury, Bureau of Accounts: Fishermen's Protective Fund	3,000,000				
Equal Employment Opportunity Commission: Salaries and expenses	32,000,000	46,934,000	40,000,000	46,934,000	43,000,000
Federal Maritime Commission: Salaries and expenses	5,679,000	6,040,000	6,000,000	6,000,000	6,000,000
Foreign Claims Settlement Commission:					
Salaries and expenses	743,000	810,000	800,000	800,000	800,000
Payment of Vietnam and U.S.S. Pueblo prisoner of war claims	16,200,000				
Total, Foreign Claims Settlement Commission	16,943,000	810,000	800,000	800,000	800,000
International Radio Broadcasting: International broadcasting activities	39,670,100	49,934,000	45,000,000	45,000,000	45,000,000
Marine Mammal Commission: Salaries and expenses		825,000	412,000	825,000	412,000
National Commission for the Review of Federal and State Laws Relating to Wire-Tapping and Electronic Surveillance: Salaries and expenses		332,000	332,000	332,000	332,000
National Commission on Fire Prevention and Control: Salaries and expenses	450,000				
National Tourism Resources Review Commission: Salaries and expenses	400,000				
Small Business Administration:					
Salaries and expenses	22,560,000	22,300,000	22,150,000	22,150,000	22,150,000
Payment of participation sales insufficiencies	970,000	973,000	973,000	973,000	973,000
Business loan and investment fund	395,000,000	225,000,000	225,000,000	225,000,000	225,000,000
Disaster loan fund	1,855,000,000				
Total, Small Business Administration	2,273,530,000	248,273,000	248,123,000	248,123,000	248,123,000
Special Representative for Trade Negotiations: Salaries and expenses	1,014,000	1,550,000	1,500,000	1,500,000	1,500,000
Subversive Activities Control Board: Salaries and expenses	350,000				
Tariff Commission: Salaries and expenses	6,000,000	7,300,000	7,000,000	7,300,000	7,100,000
U.S. Information Agency:					
Salaries and expenses	190,750,000	203,432,000	202,000,000	190,077,500	196,000,000
Salaries and expenses (special foreign currency program)	12,500,000	7,008,000	7,008,000	5,208,000	6,000,000
Special international exhibitions	5,061,000	4,336,000	4,336,000	4,336,000	4,336,000
Special international exhibitions (special foreign currency program)	357,000	78,000	78,000	78,000	78,000
Acquisition and construction of radio facilities	1,000,000	17,000,000	6,000,000	1,000,000	1,000,000
Total U.S. Information Agency	209,668,000	231,854,000	219,422,000	200,699,500	207,414,000
Total, title V, related agencies	2,608,113,100	612,505,000	585,095,000	576,367,500	578,171,000
Total, title I, II, III, IV, and V, new budget (obligational) authority—appropriations	6,779,093,850	4,522,901,000	4,152,946,000	4,459,478,250	4,466,012,000
Memoranda: Appropriations to liquidate contract authorizations	(232,000,000)	(221,515,000)	(221,515,000)	(221,515,000)	(221,515,000)
Total appropriations, including appropriations to liquidate contract authorizations	(7,011,093,850)	(4,744,416,000)	(4,374,461,000)	(4,680,993,250)	(4,687,527,000)

[1] Includes amounts in 2d Supplemental Appropriation bill, 1973, Public Law 93-50.

[2] Includes $21,800,000 contained in S. Doc. 93-26 and $2,200,000 contained in H. Doc. 93-106 not considered by House.

[3] Includes net increase of $24,475,000 contained in H. Doc. 93-123 not considered by House.

[4] Following items included but not considered by House:

H. Doc. 93-124	$205,000,000
S. Doc. 93-30	$6,140,000
S. Doc. 93-23	1,306,000
S. Doc. 93-35	5,000,000

[5] Includes $800,000 contained in S. Doc. 93-26 not considered by House.

[6] Contained in S. Doc. 93-24 not considered by House.

Mr. PASTORE. Mr. President, I want to say that I am awaiting the arrival of the Senator from Nebraska (Mr. HRUSKA) so that I would be perfectly willing to answer any questions on this matter in the meantime.

Mr. JAVITS. I should like to direct the attention of the Senator from Rhode Island to amendment No. 5 entitled "Contributions to International Organizations." This title appropriates $200 million instead of $202,287,000 as proposed by the House and $185,357,750 as proposed by the Senate, thereby making a reduction of $2,287,000 from the budget request which was the amount appropriated by the House. The manager's report states specifically that this contribution shall be taken away from the International Labor Organization.

The ILO has a budget request with us of $8,709,300. Therefore, this is a 25-percent cut. As this is an organization which we have been associated with for 50 years—I believe it is at least that figure—and it is a tripartite organization—management, labor, and government—doing extraordinarily fine work throughout the world in labor matters especially in terms of labor conventions, endeavoring to elevate the standards of minimum compensation and conditions of work for workers throughout the world, I wonder whether the manager of the bill would be kind enough to tell us what his rationale is for the cut.

Mr. PASTORE. Mr. President, the House was adamant on this. I do not agree with it. We are pursuing it further and have been assured by the State Department that they are working on a budget estimate to be submitted in the next supplemental. I would hope, at that time, that we can restore the $2,287,000. I think it is an obligation that is owed by the U.S. Government. This is a good project. It promotes international liaison with reference to labor relations. It would be rather unfortunate if we sustained such a drastic cut.

I might say to my colleague from New York that I hope we can remedy that situation the next time.

Mr. JAVITS. I thank the Senator very much. It is also characteristic of the Senator from Rhode Island, whose deep understanding of labor matters in the United States and throughout the world has characterized his most distinguished service in the Senate throughout the years he has served here.

I should like to point out, as adding to the record, that we had a considerable "flap" about this matter of the International Labor Organization, which resulted in some kind of dug-in position by President Meany of the AFL–CIO. We went into arrears for a number of years to the great embarrassment of this country and the organization as well as the management, labor, and governmental delegates whom we send annually to the ILO.

That was cleared up finally, and we are now pretty much in balance. But, here we go again. So that I welcome, and, as I said, it is quite characteristic of the distinguished Senator from Rhode Island that he should have the deep feeling he does about this matter. I appreciate his assurances and I know that they will be carried out. I would only offer in every way my full advocacy and cooperation to the Senator from Rhode Island at the proper time.

Mr. PASTORE. I thank the Senator from New York. Now I yield to the Senator from Nebraska (Mr. HRUSKA).

Mr. HRUSKA. Mr. President, on balance, this conference report is a well-considered product and worthy of prompt approval by the Senate.

Some points in the conference report recur from year to year. One of them has just been mentioned by the Senator from New York (Mr. JAVITS). There is no setback in that program, no abridgment of any of its activities pending the consideration of the supplemental. Of course, the Senator from Rhode Island has already given the Senator from New York part of the background on it.

We have canvassed that ground time and again in past years, and in the years when the Senator from New York himself was a member of the Appropriations Committee. But I can assure him that the sentiment for that program and for its activities is firmly fixed, with a great deal of support and cooperation. Therefore, I am confident that there will be no setback or slowing down of the program.

Mr. JAVITS. I thank my colleague from Nebraska very much.

Mr. HRUSKA. I would like to take this opportunity to applaud the leadership of the distinguished Senator from Rhode Island (Mr. PASTORE) who is the chairman of the subcommittee which considered this measure in the Senate.

I can assure my colleagues that Mr. PASTORE and the other Senate conferees worked diligently with our counterparts from the House in producing this document.

I am generally satisfied with most of the provisions contained in the conference report. However, there are certain matters with which I am disappointed. A few of these deserve particular mention.

The Senate-passed bill provided language to cover certain problems relating to the exchange of identification records by the FBI. Identical language was contained in the appropriations bill last year with the addition of the word "hereafter." It was the position of the House that the addition of this word made the entire language regarding the use of FBI records permanent legislation and, therefore, that there was no need for similar language in the bill this year. There has been some difference of opinion on this matter.

Although this report reflects a consensus, it does not appear that any prejudice has been exhibited in the choice and decision of the conference committee on this point.

It should, however, spur the deletion of any language enacted without prejudice to the efforts of the Judiciary Committees of the House and Senate in considering general legislation which would cover this point on a permanent basis. We need that. An appropriation bill is not a proper vehicle for general legislation. I do hope that we can solve this matter at an early date.

The distinguished Senator from North Carolina (Mr. ERVIN) has been working on this type of legislation. The Senator from Nebraska has worked on such proposals in past Congresses.

We now hope to have hearings on this matter and resolve the issue. It will be particularly important as we have more and more of the States developing their own system of crime statistics and determining what sort of information to transmit between the States.

Another point that we have difficulty with is the matter of the appropriation for defense-appointed counsel under the Criminal Justice Act. The history of that act has also been spread on the record; the debates here, our testimony, and in our committee reports.

Annually we have an exercise in the conference report where we go over this matter again and again. There is no question that the history clearly shows, and the law clearly indicates that this matter should be an activity funded through the judiciary. However, Congress in its wisdom, has decided to the contrary.

The main thing is that moneys will be going forward in sufficient degree to take care of the needs of all those to whom defense counsel should be appointed by the courts. There will be no degradation of that program. It will go forward. As time goes on, I hope that we can place it on a permanent basis rather than having to take it up in this rather unsatisfactory case by case basis each and every year.

Accordingly, I commend the leadership of the chairman of the subcommittee, and suggest that quick approval of this appropriation bill will be very much in order. I would be remissed if I failed to pay tribute at this point to the excellent work done by both the Majority and Minority staff during our consideration of this bill.

INTRODUCTION OF S. 2697

Mr. ERVIN. Mr. President, I should like to inform my good friend from Nebraska that I am today introducing a bill to accomplish that very objective for which he and I have been fighting for several years, with respect to FBI records. I am sorry that I have not had the opportunity to consult with him, but I am going to give him a copy of the bill and express the hope that he will join me and other Senators in coponsoring the bill.

Mr. HURSKA. Mr. President, I would be happy to be a cosponsor, sight unseen. I do not mean, however, that I subscribe to the verity of each one of the points and sections contained therein, but knowing the Senator from North Carolina for the great student he is, in any event, it will be a line vehicle for the hearings which I hope will result shortly, and we can pursue the subject in proper fashion.

Mr. YOUNG. Mr. President, I should also like to be a cosponsor of the bill, with the approval of the Senator from North Carolina.

Mr. ERVIN. Mr. President, on the basis of the statements made by the distinguished Senators from Nebraska and North Dakota (Mr. HRUSKA and Mr. YOUNG) I ask unanimous consent to have

their names added as cosponsors of the bill which I introduced a few moments ago, to protect the constitutional rights of the subjects of arrest records, authorizing the FBI to disseminate conviction records to State and local government agencies, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ERVIN. I am sorry that the Senate conferees were unable to persuade the House conferees to sustain the Senate's position with respect to FBI records and with respect to making provision of funds to compensate for indigent defendants in the courts of the District of Columbia. For that reason, while I do not seek to defeat the conference report, I wish to vote against the conference report because of the omission of the conferees, which is understandable to me, so far as the Senate conferees are concerned, to include those provisions.

THE CONFERENCE REPORT ON H.R. 8916: LEGISLATIVE LEGERDEMAIN

Mr. President, for the second year in a row the Senate has suffered a serious defeat at the hands of House conferees on the appropriations bill for the Departments of State, Justice, and Commerce, the judiciary and related agencies. For the second year in a row the House has imposed its will upon the Senate in regard to two provisions which the Senate adopted unanimously—a ban on Justice Department dissemination of raw arrest records to nonlaw enforcement agencies and full year funding for the appointed counsel program in the District of Columbia.

ARREST RECORDS

In dropping completely Senate amendment No. 21 to H.R. 8916, the Bible-Ervin rider on arrest records, the conference report has trampled upon the constitutional rights of innocent individuals. The House conferees insistence upon dropping the Senate amendment is only the latest chapter in over 2 years of legislative legerdemain by the House Appropriations Committee.

For the past 2 years the Justice Dement, with the help of the House committee, has been attempting to reverse by an appropriations rider a decision by the U.S. District Court for the District of Columbia. That court found that Congress had never authorized the Justice Department to collect from all over the country arrest records on citizens who have never been convicted of a crime and to send that information to nonlaw enforcement agencies and private employers.

On June 15, 1971, the district court for the District of Columbia handed down the decision in the case of *Menard* v. *Mitchell*, 328 F. Supp. 718. The ruling prohibited the FBI's dissemination of arrest and fingerprinting records to nonlaw enforcement agencies. The court based its decision upon an interpretation of section 534 of title 28 of the United States Code, the provision which the Justice Department has relied upon as authority for its collection of fingerprint and arrest record information.

The petitioner, Menard, had argued that inasmuch as he was never convicted, the maintenance and use of his arrest record violated the presumption of innocence, due process, the right of privacy, and freedom from unreasonable search and seizure. Although the court refused to expunge the record on Menard on these constitutional grounds, it recognized that section 534 had to be interpreted narrowly to avoid constitutional infirmities. In the court's words—

Viewed in this light, it is abundantly clear that Congress never intended to or in fact did authorize dissemination of arrest records to any state or local agency for purposes of employment or licensing checks.

The court is merely pointing out to the Justice Department and to the Congress what should have been obvious. When Congress passed section 534 almost 30 years ago it was only attempting to facilitate coordinated law enforcement activities between the Federal and local governments. In the court's words, Congress was only trying—

To assist arresting agencies, courts and correctional institutions in the apprehension, conviction, and proper disposition of criminal offenders.

There is absolutely nothing in the statute or in the debate that even suggests that confidential or harmful information, such as the arrest record of a person whom the Government does not even bother to prosecute, should be collected by the Justice Department and disseminated to private employers to help them in job screening.

Obviously, the Federal Government has no business distributing arrest records to help private enterprise in its hiring practices. Private industry has its own means of checking on applicants, and whom they hire is none of the Government's business. The distribution by the Justice Department of arrest records is like a national "enemies list." It places an unbearable stigma on citizens who may be innocent of wrongdoing. The distribution of an applicant's arrest record almost invariably means that he will not get the job he seeks. The FBI Identification Division receives over 11,000 requests for record searches each day. We cannot know how many times Americans have been denied jobs even though they were found innocent of charges, or the case was dropped, or the original arrest was a mistake, or illegal, or even unconstitutional. Simple justice means that a man should not be denied employment because of an arrest record unless a complete trial record shows he was found guilty by a court of law.

The Menard decision had the effect of bringing the FBI's fingerprint operation to a standstill. However, within a few months Senator BIBLE succeeded in attaching a rider to a supplemental appropriations bill (H.R. 11955) suspending the order in the Menard case. Since this legislation was part of an appropriations bill, it could only be temporary in nature and when the fiscal year 1973 appropriations bill for the FBI was introduced in 1972, it also contained the Bible rider. When it came time to vote on the 1973 appropriations bill in the House, Congressman DON EDWARDS was sustained on a point of order striking the rider as violative of a House rule prohibiting substantive legislation in an appropriations bill.

Although the House bill came to the Senate containing no language authorizing the fingerprint distribution, the Senate Appropriations Committee reinserted the Bible language. When the appropriations bill came to a vote in the Senate, I suggested to the proponents that I planned to make the same point of order as Mr. EDWARDS had made on the House side since the Senate has a similar rule prohibiting substantive legislation in an appropriations bill.

In lieu of making that point of order Senator BIBLE and I agreed to additional language in the Bible rider. I proposed a proviso at the end of the Bible rider which allowed continued dissemination outside the Federal Government but limited such dissemination to arrest records which also indicated that the defendant had pleaded guilty or was convicted of the crime for which he was arrested. The Senate adopted unanimously the Bible-Ervin language.

There is a great deal of confusion as to what happened to the Bible-Ervin amendment in the House-Senate conference last year. According to Senator HRUSKA who did serve on the conference, the only change in the Bible-Ervin amendment was to be the addition of the word "hereafter" so that it would be clear that my proviso would only apply from the point of enactment of the appropriations bill to the end of the fiscal year when the appropriation expires. This was designed to protect the FBI from any civil liability for distribution of arrest records without convictions which had been taking place since the Bible rider was enacted in the fall of 1971.

However, the conference report suggested that the conference committee dropped the Ervin proviso leaving the Bible language. This of course left the FBI in the same position as it had been after the first Bible rider was enacted in the fall of 1971. The Menard order was again temporarily suspended and there was nothing that Congressman EDWARDS or I could do to strike the language because a point of order did not appear available on the conference report.

At the time the Senate considered the conference report, I expressed my dismay at what the conference had done but pointed out that the language was only temporary and promised next year to make the point of order I had been dissuaded from making in 1972. Congressman EDWARDS said essentially the same thing when the conference report was considered on the House side. Therefore, the only legislative history on the provision suggests that it has the effect of suspending the Menard order but only temporarily, that is, until the appropriations legislation expires at the end of the 1973 fiscal year.

However, when the administration presented its fiscal year 1974 budget it took the position that the word "hereafter" in the Bible amendment makes the amendment permanent legislation and that the Menard order has been

permanently repealed by the conference's action. Of course, this is contrary to the legislative history. The case law interpreting appropriations riders suggests that the fingerprint operation would rest upon the infirm foundation at the end of the fiscal year if the Bible rider, or the Bible-Ervin rider is not again added to the FBI appropriation for fiscal year 1974.

As soon as I found out about the administration's position on this matter I wrote to the chairman of the Senate Appropriations Committee (Mr. McCLELLAN). The letter sets out my concern on this matter and reflected my research on the effect of the addition of the word "hereafter." That research confirmed my conclusion that the conference committee's action last year did not permanently enact the Bible rider and that additional authority would be necessary this year if the fingerprint dissemination and national crime information system were to continue to operate this year. I ask unanimous consent that my letter to the chairman of the Appropriations Committee be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. ERVIN. The Senate committee agreed with the position set out in my letter to Senator McCLELLAN. It placed the Bible-Ervin language in H.R. 8916 and no objection was raised on the floor. When the bill got to conference, the House adamantly refused to admit that it had made a mistake in not again proposing legislation similar to the Bible-Ervin rider. The House conferees insisted that the problem had been finally settled last year. They were confident that by simply slipping in the word "hereafter" without any explanation in the conference report or any legislative history, the Bible portion of the rider would be permanently enacted into law. Of course, this was contrary to the conclusion which the Senate committee had reached when it adopted the Bible-Ervin rider, and it was contrary to the understanding of last year's Senate conferees.

The result is not only an affront to the Senate's position and to the rights of innocent citizens. The House's obstinacy on this matter may have placed the whole FBI fingerprint operation in jeopardy again. I would not be surprised if a court case is brought in the near future in which a petitioner like Menard attempts to get a court to prohibit the dissemination of arrest records to nonlaw enforcement agencies. The petitioner could succeed by simply presenting the judge with a copy of the Menard order. I doubt that a judge would be willing to hold that order null and void simply because the conference committee had slipped the word "hereafter" into a conference report on a piece of temporary legislation without any explanation and without any supportive language on the floor of either House of Congress which approved it. It would be especially difficult for a court to rule for the Justice Department in such a case in the face of the Senate committee's and the Senate's conclusion that the Menard order would go back into effect if the Bible rider was not again added to the Justice Department's appropriation bill.

This year's conference report states that—

> The Conferees understand that this matter is before the Judiciary Committees of the House and the Senate and urge expeditious consideration thereof.

In other words, the conference committee is asking the Judiciary Committees of both Houses to move quickly to resolve this legal ambiguity so that the fingerprint operation is not again brought to a halt by a court order.

Therefore, I am today proposing legislation which will temporarily resolve the controversy raised by the Conference Committee's action. This legislation would in effect enact the Bible-Ervin rider into substantive law, but only for a temporary period, until the end of Congress. The legislation only gives temporary authority because I believe that much more comprehensive legislation is needed to deal with the question of law enforcement data banks and information systems. Indeed, the Justice Department is drafting such a comprehensive bill which I understand it will propose in the next few weeks. I am also planning to introduce a more complete bill in the near future. However, an effective temporary stopgap measure should be enacted as a prophylactic measure to make the fingerprint service less vulnerable to an adverse court decision and at the same time protect innocent individuals until such time as Congress enacts comprehensive legislation.

I ask unanimous consent that the bill, together with a memorandum, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

APPOINTED COUNSEL IN THE DISTRICT OF COLUMBIA

Mr. ERVIN. The House conferees also got their "pound of flesh" from the Senate on Senate amendment No. 42 of H.R. 8916. In that amendment, the Senate had provided $2,000,000 for the program for appointed defense counsel in the District of Columbia.

In this controversy, the Administrative Office of the U.S. Courts, unable to carry out its responsibilities under the Criminal Justice Act to provide defense counsel services in the District and unable to convince the Comptroller General that the District government should carry this burden, came to the House Appropriations Committee as a court of final appeal.

The controversy goes back to 1970 when the Senate enacted several significant amendments to the Criminal Justice Act of 1964, which sought to improve the quality of criminal justice in America by improving and expanding the system of public support of defense legal assistance for individuals who are financially unable to obtain counsel in criminal cases. The 1970 amendments to the Criminal Justice Act resulted in expansion of the scope of defense services available to the indigent defendant, an increase in the rate of compensation paid to attorneys representing indigent defendants, and the establishment of Federal public defender organizations within certain Federal judicial districts.

At the same time Congress was focusing attention on the local courts of the District of Columbia. The Court Reform and Criminal Procedure Act was enacted in the same year. This legislation transformed the local trial court from a municipal court of very limited jurisdiction to the court of full general jurisdiction for the District of Columbia. One of the reasons for the enactment of this legislation was to eliminate the severe criminal case backlogs which were then in effect in the Federal District Court for the District of Columbia, which prior to court reorganization handled serious local criminal cases.

Congress addressed both pieces of legislation at the same time and both the Senate and House Judiciary Committees were fully aware of the need to conform the Criminal Justice Act to the reorganization plan. Therefore, when a question was raised as to whether the Criminal Justice Act would continue to apply in the reorganized District of Columbia courts, Congress decided that question in the affirmative, because it was understood that the Federal Government would continue to have a very real impact and an interest in the operations of the revised court system. Indeed, the U.S. attorney for the District of Columbia continues to prosecute serious crimes in the District of Columbia courts.

Furthermore, the Congress felt that all Criminal Justice Act payments should be administered by one agency, the Administrative Office of the U.S. Courts, so that the standards set out in the act would be applied uniformly nationwide. For these reasons the Criminal Justice Act was amended contemporaneous with court reform in the District to provide expressly that the act was to continue to apply to the local courts in Washington. Indeed, it was the Justice Department that urged both in the Constitutional Rights Subcommittee and in the House Judiciary Committee carefully drawn amendments specifically designed to insure that court reform would not impair the continued application of the federally administered Criminal Justice Act program in the District's new courts.

Despite the clear legislative intent expressed by the Congress in both the 1970 amendments to the Criminal Justice Act and the 1970 District of Columbia Court Reorganization Act, there has been considerable controversy involving the means of financing and administering defense services for indigents in the District of Columbia under the provisions of the Criminal Justice Act. The Administrative Office of the U.S. Courts is either reluctant or incapable of administering the Criminal Justice Act funds for the District of Columbia. Last year, in response to a decision by the Administrative Office of the U.S. Courts not to accept vouchers from attorneys providing services under the Criminal Justice Act of the District of Columbia,

the Comptroller General of the United States issued a formal decision.

In this decision, the Comptroller General ruled that the legislative intent of Congress in both of these acts was that Criminal Justice Act funds for the District of Columbia should be administered and budgeted for by the Administrative Office of the U.S. Courts, as is the case with Criminal Justice Act defender funds for the other Federal judicial districts. This ruling is an authoritative interpretation of the law binding on the Administrative Office no less than on other agencies of the Federal Government. However, on October 26, 1972, the Judicial Conference of the United States voted not to include the budget estimates of needed District of Columbia Criminal Justice Act funds in their fiscal year 1974 appropriation request.

The House followed the conference's recommendation and included no appropriation for expenditure of Criminal Justice Act funds in the District of Columbia. Because the District government accepted the Comptroller General's decision as authoritative, it did not ask for funds for the Criminal Justice Act in its budget. We were then faced with the very real danger that the Criminal Justice Act would come to an end in the District of Columbia. Indeed, the appropriation bill enacted earlier this year for the District contains no funds and the only way to save the program is to include the appropriation in this bill.

H.R. 8916 was reported out of the Senate committee with an appropriation for $1.125 million for funding of legal counsel for indigent defendants in the District of Columbia as part of the total $16.623 million appropriation for Criminal Justice Act payments nationwide. This appropriation was less than one-half of the $2.250 million estimated to be necessary for the funding of indigent defendant counseling for the full fiscal year in the District of Columbia. Presumably, the Appropriations Committee intended to resolve this question in the supplemental appropriation for the Federal judiciary. This would simply postpone the crises until March or April of 1974. There is no possible way in which the District of Columbia court system, with its well over 12,500 indigent defendants annually, can operate for the remainder of the fiscal year with the sum provided for by H.R. 8916. It seemed to make little sense to me to build into this appropriation a crisis to be faced next spring.

Therefore, I proposed that the appropriation for the Criminal Justice Act in the District be increased to $2,000,000. My proposal was adopted, but the House conferees insisted that the appropriation be cut in half and that the remainder of the funds be sought out of the District's budget. In light of the Comptroller General's ruling and the absence of legislative authority, the District cannot request money for a Federal program. Therefore, the conference's action raises serious questions as to whether there will be a Criminal Justice Act program in the District of Columbia.

The ultimate effect of the House conferees' position may be that large numbers of indigent criminal defendants in the District of Columbia will not be represented by counsel. In light of recent Supreme Court decisions, especially in the case of *Argersinger* v. *Hamlin*, 407 U.S. 25 (1972), many of these cases may have to be dismissed. That case held that even in misdemeanor cases an indigent defendant had an absolute right to counsel.

CONCLUSION

I am voting against the conference report on H.R. 8916 because it concedes to the House conferees on these two important points. The deletion of the Bible-Ervin rider and the slashing of funds for the Criminal Justice Act in the District of Columbia is not only unjust, but it may end two valuable programs. It may well mean that a vulnerable FBI law enforcement service will have to be halted and that hundreds of criminal cases in the District of Columbia will have to be dismissed—all because House conferees would not compromise. Perhaps it will take such disasters before we take a resolute stand against this kind of clever legislative legerdemain. Perhaps, in the words of an old North Carolinian saying—

You have to hit a mule with a 2 by 4 to get his attention.

EXHIBIT 1

MAY 15, 1973.

Hon. JOHN L. MCCLELLAN,
Chairman, Appropriations Committee,
U.S. Senate.

DEAR MR. CHAIRMAN: In recent years, the Administration has requested in its budget certain language regarding the distribution of criminal records by the Justice Department. This so-called "Bible rider" is language which has been added to the FBI's appropriation for the past few years as a temporary authorization for the Bureau to continue operation of the National Crime Information Center and the collection and dissemination of fingerprint records and "RAP sheets" by the Identification Division of the Bureau. The language is necessitated by the outstanding order in the case of *Menard* v. *Mitchell*, 328 F. Supp. 718 (1971). That order prohibits distribution by the FBI of such criminal records outside the Federal government until the Congress enacts legislative standards designed to protect the security and confidentiality of the information and to protect innocent people from being harmed by its collection and dissemination.

It has been generally recognized that, as Senator Bible described it, the rider is a "stopgap" measure which allowed the FBI to continue its dissemination on a temporary basis until the Congress has enacted the legislative standards required by the *Menard* case. Last year the Senate agreed to a modification I proposed which limited dissemination to records which indicated a conviction. Under the modification, the FBI could continue the dissemination of this information without harming innocent individuals while Congress prepared more precise legislative guidelines.

When H.R. 14989 came from conference the modified rider was dropped, and the original language was retained. When the conference report was before the Senate I announced my determination to object to such improper legislative provisions in any future appropriation bill. My determination has been strengthened by learning from Senator Hruska that the conference had indeed agreed to retain my modification but that this was somehow not reflected in the formal report. Senator Hruska has confirmed his recollection of this unfortunate discrepancy. If the Bible rider or any similar language is proposed again this year, I plan once again to raise a point of order to it as "legislating in an appropriations bill" and, therefore, violative of Senate Rule 16.

In its proposed budget for the coming year, the Administration has not renewed its request for the Bible rider. As a consequence, the temporary authority in P.L. 92-544 to distribute arrest records will expire at the end of the fiscal year since it is settled precedent that provisions such as this do not become general authority unless the clearest intent is expressed at the time.

The Justice Department takes the position that the conference committee's addition of the word "hereafter" makes the Bible language a permanent part of substantive law and that the rider is no longer necessary. However, the legislative history of the Bible rider does not suggest such an intent and the courts have required that Congress be explicit when it intends to amend substantive law with a rider to an appropriations bill. The debate surrounding the bill in committee or on the floor must clearly reflect an intent to permanently change existing substantive law. *United States* v. *Dickerson*, 310 U.S. 554 (1940), *National Labor Relations Board* v. *Thompson Products*, 141 F. 2d 794 (9th Cir. 1944). Aside from the actual debates the court will look to the legislative language itself which must manifest a clear intent to change statutory law and to the location of the rider—whether it appears in a separate provision, labeled in such a manner as to denote a change in substantive law—or whether it is simply a proviso of an appropriations item in which case the language is generally not given permanent effect. *Roccaforte* v. *Mulcahey*, 169 F. Supp. 360 (D. Mass. 1958), aff'd. 262 F. 2d 957 (1st Cir. 1958), *United States* v. *Vulte*, 233 U.S. 509 (1914), *National Labor Relations Board* v. *Thompson Products*, *supra*.

For the following reasons I believe that the simple addition of the word "hereafter" by the conference committee would not meet the above requirements for permanently amending statutory law via an appropriations rider:

First, the conference was never, in all the Congressional discussion of the appropriation bill (H.R. 14989), entrusted with the duty of considering the duration of the Bible rider; on the contrary, all that was ordered for the conference to study were the amendments as they stood. [118 Con. Rec. S 9477-9531 June 15, 1972)].

Second, the inclusion of language which may indicate permanence is not sufficient to establish the *Menard* rider as permanent legislation. The word "hereafter" is not clear on its face as to whether it denotes the rider's effect as extending until the end of the life of the appropriation bill or permanently. "Hereafter" is a minor terminology change and cannot be seen as indicating any change in the duration of the rider absent Congressional debate.

Third, Congressional discussion seems to lead one in the other direction as Senator Bible indicated that the *Menard* rider was "in the nature of a stopgap". 118 Cong. Rec. S 9522 (June 15, 1972). Indeed, Senator Bible noted that the Federal Bureau of Investigation was granted its power to disseminate records each year in Department of Justice appropriation bills and that the 1973 *Menard* rider would have to be approved as the 1972 rider reversing *Menard* would soon expire. 118 Cong. Rec. S 9522 (June 15, 1972).

Fourth, the location of the *Menard* rider in the provision for "Salaries and Expenses" of the FBI indicates the desire to have the rider's effect last only until the termination of the appropriation bill.

Fifth, the Conference reported no debate, no discussion of the added word "hereafter" or the permanency of the rider. *Conference Report*, House Report No. 92-1567, 92nd

Cong. 2nd Sess. (October 10, 1972). In light of the Senate rules, it would appear that "hereafter" if it constituted a major change in the rider would have to be noted in the report and would have subjected the report to a point of order.

Since the Bible rider must be viewed as temporary authority, it is therefore necessary for the Congress to move swiftly on arrest record legislation because the FBI's authority to operate the National Crime Information Center and the collection and dissemination of "RAP sheets" will end on June 30. I am preparing legislation on this question and I understand that the Justice Department is doing the same. Last year similar legislation was referred to the Subcommittee on Constitutional Rights and this year such legislation has been jointly referred to the Subcommittee and to your Subcommittee on Criminal Laws and Procedures. Since we chair these two Subcommittees, I suggest that the staffs of those two Subcommittees begin arrangements for swift joint action on this question so that the FBI does not have to shut down this valuable law enforcement service.

I respectfully request that this letter be made a part of the State, Justice and Commerce Subcommittee's record on the FBI appropriation.

With kindest wishes.

Sincerely yours,

SAM J. ERVIN, Jr.,
Chairman.

EXHIBIT 2

A bill to protect the constitutional rights of the subjects of arrest records and to authorize the Federal Bureau of Investigation to disseminate conviction records to State and local government agencies, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 534 of title 28, United States Code, is amended to read as follows:

"§ 534. Acquisition, preservation, and exchange of identification records; appointment of officials

"(a) The Attorney General shall—

"(1) acquire, collect, classify, and preserve identification, criminal identification, crime, and other records; and

"(2) exchange these records with, and for the official use of, the Federal Government, the States, cities, and penal and other institutions for law enforcement purposes.

"(b)(1) The Attorney General may exchange such records with the officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions; and if authorized by State statute, with officials of State and local governments for purposes of employment and licensing.

"(2) Any such exchange under this subsection shall be made only for the official use of any such official. The exchange of any identification or other record indicating that any person has been arrested on any criminal charge or charged with any criminal offense is hereby forbidden unless such record discloses that such person pleaded guilty or nolle contendere to or was convicted of such charge or offense in a court of justice.

"(c)(1) All copies of records of information filed as a result of an arrest that is legally terminated in favor of the arrested individual shall be returned to that individual within 60 days of final disposition and shall not be maintained in the files of any Federal agency, if a copy of the formal court order disposing of the case is presented, or upon formal notice from one criminal justice agency to another. Records of information include fingerprints, photographs or any records or files, except investigative files, relating to that arrest.

"(2) Records of such information may be retained if another criminal action or proceeding is pending against the arrested individual, or if he has previously been convicted in any jurisdiction in the United States of an offense.

"(d) The exchange of records authorized by this section is subject to cancellation if dissemination is made outside the receiving departments or related agencies.

"(e) The Attorney General may appoint officials to perform the functions authorized by this section.

"(f) The Attorney General's authority to disseminate records indicating that an individual has been arrested or charged with any criminal offense to non-criminal justice agencies, pursuant to subsection (b), shall expire on December 31, 1974. After that date the Attorney General shall be forbidden from disseminating such information to non-criminal justice agencies."

MEMORANDUM

(November 12, 1973)

Re: Arrest Records Legislation

The attached draft legislation is designed as a temporary stopgap measure to resolve the controversy raised by the Conference Report on H.R. 8916, the State, Justice and Commerce Appropriations bill for Fiscal 1974. In essence, that controversy concerns the the viability of the outstanding court order against the FBI by the District Court for the District of Columbia in the case of *Menard* v. *Mitchell* 328 F. Supp. 718 (1971). In that case the District court so construed section 534 of title 28 as to prohibit the FBI from disseminating raw arrest records to non-law enforcement agencies. The House takes the position that it has permanently resolved this question; the Senate, of course, disagrees.

The attached legislation would amend § 534 so as to reestablish that authority in the following manner:

Subsection (a) simply restates the existing general language of § 534;

Subsection (b) addresses the issue raised by the *Menard* decision. It is almost identical to the language which Senators Bible and Ervin proposed to H.R. 8916 limiting non-law enforcement dissemination to conviction records.

Subsection (c) also addresses the question of dissemination of non-conviction records to both law enforcement and non-law enforcement agencies. It is almost identical to the recommendations of a recent Justice Department report.

Subsections (d) and (e) are identical to existing language in section 534.

Subsection (f) provides that the Attorney General's authority to disseminate information to non-law enforcement agencies expires at the end of this Congress. This assures that this legislation is only a temporary measure and that the Justice Department will have to return to the Congress for additional authority, hopefully in the form of a comprehensive arrest records bill.

Mr. MATHIAS. Mr. President, I am pleased to join today with the distinguished Senator from North Carolina (Mr. ERVIN) in introducing legislation which will give temporary authority to the FBI to continue its current program of disseminating arrest records for law enforcement and other purposes. That authority is currently in doubt as a result of an outstanding court order against the FBI by the District Court of the District of Columbia in the case of *Menard* v. *Mitchell*, 321 *Fed. Supp.* 718 (1971) and the Senate-House disagreement over the necessity for inclusion of such authority in the State-Justice-Commerce appropriations bill for fiscal 1974.

I join in cosponsoring legislation to give the FBI this temporary authority even though I have been critical of the manner in which criminal justice information has been disseminated in the past. I have been critical because the current FBI operated system for the sharing of this information between the Federal Government and the States has grown up without adequate standards and safeguards governing its use. The National Computerized Information Center established by the FBI and the Federal-State computerized networks for the sharing of criminal justice information which are funded under the Law Enforcement Assistance Administration are not funded on an adequate statutory base. Nor are we today providing the necessary statutory framework which I believe will be necessary to cope with the issues raised by this system when it becomes fully operational. Nevertheless, I am joining Senator ERVIN as a cosponsor of a temporary authority for the reasons set forth below.

The NCIC and participating State systems constitute a vast network for the exchange of information between the law enforcement agencies of the States and the Federal Government and among the States. This system has enormous potential for increasing the capability of law enforcement. When the system is fully operational, each individual police officer could instantaneously have information from all over the Nation concerning suspects at his finger-tips simply by contacting his local computer terminal. Such contact might even be made from a patrol car. This tool can be extremely valuable to police and other law enforcement officials faced with problems which do not respect jurisdictional lines or, in our modern society, distance.

But as with so many technological wonders of our age, this miracle for communicating information raises new problems which must be addressed. In this case, the problems concerning using this system in a way that protects constitutional liberties and civil rights, including the right of privacy.

For that reason, I have favored legislation that would, while authorizing the establishment of such a system, establish basic rules and guidelines governing the types of information that can be included in this system, the procedures for insuring the correctness of such information, and the circumstances of its dissemination. As a member of the Judiciary Committee, I have had called to my attention a number of problems created by the lack of such guidelines.

For instance, I have heard of at least one occasion where a local police officer sold information about individuals which he obtained through the national computer system because he had access to the local computer terminal to a credit union. The only sanction currently available in such a case is termination of the contract under which the information was made available to that local jurisdiction. Under current Federal law, dissemination of information in such a case is not even a crime.

I am pleased that former Attorney General Elliot Richardson was also aware of these types of problems and supported

such legislation. During his tenure, the Department of Justice was readying a draft bill on this subject for presentation to the Congress. I hope that the new Attorney General will favor and support such legislation.

But, in the meantime, the Menard decision requires temporary authority in order that the FBI may lawfully continue to use the NCIC system. The bill we are introducing today would provide such temporary authority until the end of 1974 which will give ample time for the Congress to consider and enact a long-range solution in the form of permanent legislation.

Mr. PASTORE. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. PASTORE. First I want to say that there is tremendous merit in the proposal of the Senator from North Carolina. We argued long and hard to convince the House conferees that they should accept the amendment as it was included in the bill.

The argument has been made that the FBI has taken the position that the amendment as written would be unworkable, which I question. Nothing is unworkable if we try. The important thing is the principle involved, and the principle is good. But the position they took—and I think there was some merit to it—was that this should become permanent law if it is worthy and that, because it falls within the exclusive jurisdiction of the Judiciary Committee, that is where it should originate. It was for that reason that, after we had debated it for some time, we insisted that it be deleted, but emphasized that it was being done without prejudice to the merit of the amendment itself.

At this juncture, I ask unanimous consent that my name also be added as a cosponsor of the bill proposed by the Senator from North Carolina. I do not subscribe to every particular word in the amendment, but I think the principle is good. I believe we ought to hold hearings on it, we ought to go into it extensively, and we ought to come up with a bill that makes some sense, because I think this is an area in which we do need some sense.

I do not think it is right for certain records to be proposed and to be batted around the country when a person applies for a job, especially in a case in which there is an arrest on a menial offense that never comes to trial, and yet it haunts that individual in seeking and obtaining legitimate employment for the rest of his life. That is not fair. I do not think our Founding Fathers ever intended that that be the case.

However, we all agreed that when a person is a criminal and his record is not good, in that case it ought to be told publicly. I think the Senator from North Carolina agrees to that.

What the Senator from North Carolina is talking about is the constitutional rights of an individual, and you just cannot toy with the Constitution without reaching in some instances things that will come back to haunt you. It was for that reason that we finally had to go along.

On the question of providing counsel in the district courts of the District of Columbia, we all understand that the Supreme Court has already ruled that even in the case of a misdemeanor, a defendant is entitled to counsel; and whether or not it is being done under this bill or under the District of Columbia bill, eventually it has to be done, and these people will have to be paid. We have been assured by Mayor Washington, of the District of Columbia, that he proposes to do it that way.

The Judicial Council feels that it should come under the District of Columbia and not under the judiciary aspects of this bill. For that reason, of course, we argued it before the conference, and finally we did have to recede, on the ground that the matter would be taken care of.

I assure the Senator from North Carolina that no matter what the case is, if this is not done on the District of Columbia bill, I will do it on the next supplemental bill.

Mr. ERVIN. I thank the distinguished Senator from Rhode Island, not only for his remarks on this occasion, but also for the fact that he has supported my efforts in respect to the Ervin amendment and also to making provision for counsel for indigents in the District of Columbia, when the bill was before the Senate.

I agree with the Senator that in the long run it is much better to have this question settled by a specific act rather than by an amendment to an appropriation bill or an authorization bill.

Mr. PASTORE. Mr. President, I ask for the yeas and nays on the adoption of the conference report.

The yeas and nays were ordered.

Mr. PASTORE. Mr. President, before I ask that the conference report be agreed to, I take this occasion, first, to compliment my counterpart on the subcommittee, the distinguished Senator from Nebraska (Mr. HRUSKA), and also the ranking Republican member of the Committee on Appropriations (Mr. YOUNG) for the fine cooperation they gave us in the consideration of the bill. The bill contains 86 individual items. We have had 54 amendments to the conference report and more than 2,000 pages of hearings. It took us approximately 5 weeks to hear what the witnesses had to say.

For that reason, I want to pay my compliments to the members of the staff Joseph T. McDonnell, Harold E. Merrick, Gerald P. Salesses, and William Kennedy, of the minority—and to all others on the committee who played a part in the adoption of the report.

Unless there is anything else to be said, I suggest the absence of a quorum before the vote.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, at this time I wish to make part of the legislative record clear on the point that the Conference Committee agreed to the separate language of the Senate amendment to H.R. 8916 providing funds for the Coastal Zone Management Act of 1972—Public Law 92-583. The $15 million appropriation in the Senate amendment has, however, been reduced by the conferees to $12 million.

The House had provided no funds for the implementation of the Coastal Zone Management Act on grounds that the administration had not requested the funds necessary to begin this new land and water use program to assist States in the management of their coastal areas. Prior to the reporting of the Senate Appropriations Committee's action on H.R. 8916, however, the administration did decide that the signature of the Coastal Zone Act into law, a year ago, should be affirmed and, that, in fact, the States do need this assistance for their coastal areas.

The President sent an amendment to the fiscal year 1974 budget to the Senate on August 15, 1973. He included a letter from the director of the Office of Management and Budget reporting that funding of the act will "assure beneficial use, protection and development of our coastal waters and adjacent shorelands."

With unanimous consent, which I hereby request, this August 15 request will appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HOLLINGS. Unlike other ongoing programs, the effect of the initial failure of the administration to budget funds for the Coastal Zone Act has caused at least a year's setback in fulfilling congressional intent. It delayed the tooling up of the Coastal Zone Act program at the Federal level and also caused delay at the State level. We, therefore, cannot suffer any withholding of the funds appropriated or other additional delay by the administration.

To deal with this special situation, the language of the Coastal Zone Act appropriation and my statement here today is intended by the Conferees to make it absolutely certain that the legislative history of this appropriation leaves no doubt as to its meaning.

First, we provide that the sums appropriated shall remain available until expended. This is consistent with the language of section 315 of the Coastal Zone Management Act.

Second, we appropriate the total sum of $12 million. It is the conferees' intent that it is to be used as follows: $4 million for grants to States under section 312 of the Coastal Zone Management Act to be used to match State funds on an equal basis to acquire, develop, and operate estuarine sanctuaries pursuant to that section of the Coastal Zone Management Act of 1972; $7,200,000 for grants to States under section 305 of the Coastal Zone Management Act to assist States in the development and administration of coastal zone management programs pursuant to those sections. The Conference Committee understands that the de-

lays caused by the administration have now made it impossible for any State to perfect a management program so as to be able to qualify under section 306. We therefore decided that all of the $7.2 million should be utilized under section 305 which is for developing management programs. For some States, the money will be for a review and fine tuning of existing programs. For others, of course, it will be for the true beginning of the development of a program. The Conference Committee, however, has retained the language of the Senate amendment which also refers to section 306 for the reason that if any of these moneys should remain unobligated in the following fiscal year, the Secretary of Commerce, may wish to designate them, with the approval of both committees, as also available for section 306 grants; and $800,000 for the administrative expenses of the Secretary of Commerce, through NOAA, in carrying out the Coastal Zone Management Act of 1972.

Third, we provide that the expenditures of this appropriation shall not result in, or be used as, an excuse for the withholding of appropriated funds for other NOAA activities. This includes cutbacks in NOAA spending as well. Moreover, the conferees hope that prudence will be exercised and that this appropriation will not be reduced by the administration to repay funds transferred or borrowed from other areas to keep the coastal zone program alive within NOAA for periods during which the administration had failed to request funds unless such repayment is made following consultation with the two committees.

Fourth, we use language which recognizes and declares that the States are legally entitled to receive the moneys appropriated, notwithstanding any attempt to impound them or otherwise not make them available through methods such as jamming the administrative machinery, by not providing regulations or by not processing applications.

Fifth, we require that each coastal State shall receive its share of the coastal zone management funds. If there should be a failure to publish necessary regulations or other administrative failures, it is necessary to indicate each State's entitlement. The regulations, if available, should specify a formula for dividing the funds between the States including relevant considerations to determine the proportions. The extent and nature of the shoreline and area which will be managed, population pressures and the extent of coastal zone problems which the act is designed to assist the States in meeting are criteria that might be used. The provisions of this appropriation measure are not intended to interfere with a reasonable proportional allocation scheme but, instead, we mean to refer to it, if the formula is developed by the executive branch.

Lastly, we have included language to assure that the funds appropriated will not be designated by the administration, directly or indirectly, for use in areas outside a coastal State's coastal zone which that State has included in an application for assistance under a national land use law. This prevents duplication by keeping funds for both programs from being spent in the same geographical area. A coastal State with both programs will designate its coastal zone management act area and its separate land use act area.

EXHIBIT 1

BUDGET AMENDMENTS, 1974, DEPARTMENT OF COMMERCE

THE WHITE HOUSE,
Washington, August 15, 1973.

THE PRESIDENT OF THE SENATE.

SIR: I ask the Congress to consider amendments to the request for appropriations transmitted in the budget for the fiscal year 1974 in the amount of *$5,000,000* for the Department of Commerce.

The details of these proposals are set forth in the enclosed letter from the Director of the Office of Management and Budget, with whose comments and observations I concur.

Respectfully,

RICHARD NIXON.

[Estimate No. 27, 93d Cong., first sess.]

EXECUTIVE OFFICE
OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., August 15, 1973.

The PRESIDENT,
The White House.

SIR: I have the honor to submit for your consideration an amendment to the request for appropriations transmitted in the budget * * *

Department of Commerce—National Oceanic and Atmospheric Administration

Operations, research, and facilities:

Request pending	$343,089,000
Proposed amendments	5,000,000
Revised request	348,089,000

The proposed budget amendment would initiate implementation of P.L. 92-583, the Coastal Zone Management Act of 1972. This Act authorizes the Secretary of Commerce to make grants to coastal states to assist them in the development of a management program for the land and water resources of their coastal zones. With needed broader land use legislation now under consideration by the Congress, "it is now timely to proceed with funding of the Coastal Zone Management Act so as to assure beneficial use, protection and development of our coastal waters and adjacent shorelands."

I have carefully reviewed the proposal for appropriation contained in this document and am satisfied that this request is necessary at this time. I recommend, therefore, that this proposal be transmitted to the Congress.

Respectfully,

ROY L. ASH,
Director.

Mr. HART. Mr. President, it was with deep regret that I learned our conferees on this bill were not able to prevail and keep the $1 million appropriation the Senate added for the Antitrust Division of the Department of Justice.

Frankly, I think Congress is being penny-wise and pound-foolish to keep the antitrust division handicapped by a shortage of funds.

For this is certainly one area of governmental spending which demonstrates a good return on the investment.

For example, antitrust action against five drug companies has directly reduced prices of the important antibiotic tetracycline to consumers by 95 percent. The antitrust action against a number of electrical equipment manufacturers led to treble damage settlements which resulted in more than $500 million being returned to consumers through reduced utility rates.

That settlement alone would finance the division's current budget for more than 40 years.

Surprisingly enough, despite such success, the budget for the division—when measured in 1958 dollars—has decreased since 1950, while the size of the economy has more than doubled. So, in the face of a well-documented trend toward economic concentration, the division employs fewer persons to enforce the antitrust laws than it did 23 years ago.

Mr. President, the additional funds were added to the appropriation for the Antitrust Division by the Appropriations Committee at the request of myself and four of my colleagues on the Judiciary Committee, Senators KENNEDY, BAYH, GURNEY, and TUNNEY. The Senate agreed. But unfortunately, apparently the House conferees did not.

We reluctantly accept the decision of the conference.

But we do not give up on the cause. Hopefully, we can yet this year convince the House of the wisdom of investing in the Antitrust Division.

Mr. TUNNEY. Mr. President, I rise to express my disappointment at the refusal of the House conferees to accept two provisions—one to increase funding for the Antitrust Division of the Justice Department and another to increase funding for the Community Relations Service division of the Justice Department. Both of these increases were of the upmost importance.

Senator HART, myself, and other members of the Judiciary Committee wrote to Senator PASTORE, chairman of the Subcommittee on State-Justice-Commerce appropriations on June 28 asking that the funding level for the Antitrust Division be increased by $3 million. Fortunately, the subcommittee partially acceded to our request and increased the budget request by $1 million. This increase subsequently passed the Senate.

On July 17, I wrote to Senator PASTORE again requesting that the $4 million in funds slashed by the administration from the Community Relations Service budget be restored. Again, the subcommittee attempted to meet this request and $1 million was added to the budget request for CRS and was passed by the Senate.

Although the funding level that I had requested for each division was much higher than what was approved by the Senate, I felt that the $1 million increase for the two functioning in an effective manner. The refusal of the House conferees to accept these modest, but necessary, increases is very distressing to me as it should be to all Americans who feel that we need a strong Antitrust Division to maintain the viability of our free enterprise system and a strong Community Relations Service to insure the continued operation of the only Federal agency charged with conciliating racial disputes.

Both of these issues are extremely important. I would hope that the Congress would reevaluate its position on the need for these increases at the earliest pos-

sible opportunity—hopefully in the supplemental appropriations bill this year.

I ask unanimous consent that the two letters written to Senator PASTORE be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

JULY 17, 1973.

Hon. JOHN O. PASTORE,
Chairman, Senate Appropriations Subcommittee on State, Justice, Commerce, the Judiciary, Washington, D.C.

DEAR JOHN: It is my understanding that your subcommittee currently is marking-up appropriations that include funding for the Community Relations Service of the Justice Department. The service was set up under the Civil Rights Act of 1964 to help reduce racial tensions and conflicts, but it will all but be dismantled under the administration's 1974 budget, which slashes funds for the service from $6.8 to $2.8 million. This goes beyond cutting to the bone. It cuts through the bone in a meat-axe amputation of the one federal agency charged with conciliating racial disputes. The service, which has shunned publicity, has been spectacularly successful in behind-the-scenes negotiations in preventing violence and settling conflicts. It has worked in major cities in California and in troubled farm lands in the Central Valley. My state would be particularly hard hit by the drastic cut-back, and its two-man Los Angeles office would be closed. I'm sure other areas throughout the United States would be similarly affected and I would urge you and your subcommittee to restore funding to this vital service. Thank you for your consideration.

Sincerely,

JOHN V. TUNNEY,
U.S. Senator.

U.S. SENATE,
Washington, D.C., June 28, 1973.

Hon. JOHN O. PASTORE,
Chairman, Subcommittee for the Departments of State, Justice, Commerce, the Judiciary, and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is to request an increase of $3 million in the budget for the Antitrust Division of the Department of Justice.

We make this request mindful of widespread concern about inflation and the effect of government spending on the economy.

Economists of various persuasions, including Dr. Arthur Burns, Chairman of the Federal Reserve Board, and Dr. Pierre Rinfret, formerly Special Economic Advisor to President Nixon, have stated that the most effective way to control prices is to increase competition in the marketplace.

The antitrust laws are designed to do just that, and effective enforcement of those laws remain the nation's best defense against unhealthy economic concentration. Certainly, we do not suggest that an additional $3 million for the Antitrust Division will solve the problem of inflation, but we do believe it could help. Equally important, potential savings to consumers from successful antitrust actions could more than offset the increase.

For example, antitrust action against five drug companies has directly reduced prices of the important antibiotic tetracycline to consumers by 95 percent. The antitrust action against a number of electrical equipment manufacturers led to treble damage settlements which resulted in more than $500 million being returned to consumers through reduced utility rates. The electrical equipment conspiracy settlements alone would meet the division's current budget for more than 40 years.

Surprisingly enough, despite such success, the budget for the division—when measured in 1958 dollars—has decreased since 1950, while the size of the economy has more than doubled. So in the face of a well-documented trend toward economic concentration, the division employs fewer persons to enforce the antitrust laws than it did 23 years ago.

As a result, cases which are brought drag on longer; and many actions are not filed because the division is reluctant to take on "big cases" which would tie up a large percentage of its resources. About ten percent of the division's manpower is now working full time on the IBM case. That case was filed over four years ago and has yet to come to trial. Even more striking, Control Data Corporation's private suit against IBM was settled in a pretrial stage with a $15 million payment from IBM to cover Control Data's legal expenses alone. This sum exceeds the division's entire budget.

Unhappily, the hard fact is that to a great extent the cases brought today must be made against giant defendants whose resources swamp those of the Antitrust Division. In 1950, there were only a dozen manufacturing corporations with assets in excess of $1 billion; as a group, they held 18 percent of all manufacturing assets. By 1972, 52 percent of all manufacturing assets were held by 115 "billion dollar" firms.

The Administration has requested about $13 million for the division for fiscal year 1974, a small and clearly inadequate increase over last year's total. An increase of $3 million would allow the division to hire 50 more lawyers and support personnel, including economists. It is our understanding that the division could usefully absorb such an increase.

It seems to us then that our request is consistent with congressional concern about inflation and federal spending. Further, our request should enjoy the support of all of us who believe competition in the marketplace is the best way to control prices and of those who recognize that successful antitrust actions can save consumers many times over the cost to the Federal Government.

With best wishes,
Sincerely,

EDWARD M. KENNEDY,
BIRCH BAYH,
EDWARD J. GURNEY,
PHILIP A. HART,
JOHN V. TUNNEY.

Mr. PASTORE. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Washington (Mr. MAGNUSON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from South Carolina (Mr. THURMOND) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS), and the Senator from South Carolina (Mr. THURMOND) would each vote "yea."

The result was announced—yeas 80, nays 2, as follows:

[No. 480 Leg.]

YEAS—80

Abourezk	Domenici	McGovern
Aiken	Eagleton	McIntyre
Allen	Eastland	Metcalf
Baker	Fannin	Mondale
Bartlett	Fong	Montoya
Bayh	Fulbright	Muskie
Beall	Gravel	Nunn
Bellmon	Griffin	Pastore
Bennett	Gurney	Pearson
Bentsen	Hansen	Pell
Biden	Hart	Percy
Brock	Haskell	Proxmire
Brooke	Hatfield	Randolph
Buckley	Hathaway	Ribicoff
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Scott, Hugh
Byrd, Robert C.	Hruska	Sparkman
Cannon	Hughes	Stafford
Case	Inouye	Stevens
Chiles	Jackson	Stevenson
Church	Javits	Symington
Clark	Johnston	Taft
Cook	Long	Tower
Cotton	Mansfield	Tunney
Cranston	McClellan	Weicker
Dole	McClure	Williams
	McGee	Young

NAYS—2

Ervin	Mathias

NOT VOTING—18

Bible	Kennedy	Scott, William L.
Curtis	Magnuson	Stennis
Dominick	Moss	Talmadge
Goldwater	Nelson	Thurmond
Hartke	Packwood	
Huddleston	Saxbe	
Humphrey	Schweiker	

So the conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the first amendment in disagreement.

Mr. PASTORE. Mr. President, I ask unanimous consent that the amendments in disagreement be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments in disagreement will be considered en bloc.

The amendments in disagreement are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 30 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted, insert:

"DEVELOPMENT FACILITIES

"For grants and loans for development facilities as authorized by titles I, II, and IV of the Public Works and Economic Development Act of 1965, as amended (79 Stat. 552; 81 Stat. 266; 83 Stat. 219; 84 Stat. 375; 85 Stat. 166), $159,000,000 of which not more than $25,000,000 shall be for grants and loans to Indian tribes, as authorized by title I, section 101(a) and title II, section 201(a) of such Act: *Provided*, That upon enactment of the Indian Tribal Government Grant Act

the unobligated balances of the amounts appropriated for Indian tribes under title I, section 101(a) and title II, section 201(a) shall be transferred to carry out such purposes of the Indian Tribal Government Grant Act."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 37 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert:

"$12,000,000."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 46 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed to be inserted, insert:

"COMMISSION ON THE ORGANIZATION OF THE GOVERNMENT FOR THE CONDUCT OF FOREIGN POLICY

"SALARIES AND EXPENSES

"For necessary expenses of the Commission on the Organization of the Government for the Conduct of Foreign Policy, authorized by title VI of the Foreign Relations Authorization Act of 1972, $1,050,000 to remain available until June 30, 1975."

Mr. PASTORE. Mr. President, I move that the Senate agree to the House amendments to Senate amendments numbered 30, 37, and 46.

The motion was agreed to.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PASTORE. I yield.

Mr. MANSFIELD. Mr. President, I think we ought to reiterate, as we stated at the time the original appropriation bill passed the Senate, that the distinguished Senator from Rhode Island (Mr. PASTORE), the distinguished Senator from Nebraska (Mr. HRUSKA), and the members of the subcommittee—and I am happy to include myself in that list—have done a remarkably effective and efficient job in economizing. The net result of what the Senate has done is a reduction of almost $60 million below the budget presented by the administration.

I think all too often some of our associates are not given the credit which I think is their due, and I think it ought to be brought out also that, as far as the distinguished Senator from Rhode Island is concerned, this is not by any means the first appropriation bill which he has handled in which a significant reduction has been reported.

So, just to make the record straight and to commend the distinguished Senator from Rhode Island personally for the great work he has done in the field of the economy and in the field of cutting expenditures, I want the record to show how I feel. I thank the Senator.

Mr. JACKSON. Mr. President, before I call up the conference report on S. 1570, I just want to join the majority leader in his comments regarding the able senior Senator from Rhode Island. I think, as usual, he has been extremely thoughtful and skillful in separating out the things that could be eliminated and keeping in the things that are essential. I want to join in commending him for the sensible economies he has made. He has handled them very well. He always handles his Appropriations Subcommittee in a manner which I think lends great credit to the Senate in its deliberations on expenditures. I want to join in these commendations.

ENROLLED BILL PRESENTED

The Secretary of the Senate announced that on today, November 14, 1973, he presented to the President of the United States the enrolled bill (S. 1081) to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil pipeline, and for other purposes.

MESSAGE FROM THE PRESIDENT—APPROVAL OF BILLS

A message in writing from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on November 9, 1973, the President had approved and signed the act (S. 607) to amend the Lead Based Paint Poisoning Prevention Act, and for other purposes; and on November 13, 1973, the President had approved and signed the act (S. 11) to grant the consent of the United States to the Arkansas River Basin compact, Arkansas-Oklahoma.

EMERGENCY PETROLEUM ALLOCATION ACT OF 1973—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I submit a report of the committee of conference on S. 1570, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1570) to authorize the President of the United States to allocate crude oil and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety, or welfare; to provide for the delegation of authority to the Secretary of the Interior; and for other purposes having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees on the part of both Houses.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of November 12, 1973 at p. 36660.

Mr. JACKSON. Mr. President, I ask for the yeas and nays on the conference report.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that William Van Ness, Lucille Langlois, Jim Barnes, Grenville Garside, Mike Harvey, and Jerry Verkler, members of the staff of the Senate Committee on Interior and Insular Affairs, be granted the privileges of the floor during the consideration of the conference report on S. 1570, the Emergency Petroleum Allocation Act of 1973.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I yield for a similar request to the Senator from Arizona (Mr. FANNIN).

Mr. FANNIN. Mr. President, I ask unanimous consent that David Stang, Harrison Loesch, Fred Craft, Roma Skeen, and Maureen Finnerty, all of the minority staff, be given the privilege of the floor during the discussion of the conference report on S. 1570.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, the Committee on Interior and Insular Affairs on May 17 reported out S. 1570, the "Emergency Petroleum Allocation Act of 1973." This is an emergency measure to deal with an urgent problem to which Members of the Senate need no introduction.

The basic purpose of S. 1570 is to deal with the first peacetime fuel shortages in American history. And if this legislation was needed when the Senate first passed it 6 months ago, its final enactment has become a matter of the highest urgency.

It was already clear 6 months ago that we were not dealing with the isolated spot shortages predicted by some. It was obvious then that we were confronting the prospect of serious, prolonged and widespread shortages which would have a real impact on our economy, which would affect the nature and structure of the petroleum industry, and which would alter the standard of living enjoyed by many Americans.

Today, as a result of the Arab oil embargo, the outlook is grim. We are facing shortages equal to 20 percent or more of our petroleum needs. Rationing has become a necessity. Severe economic dislocations affecting individual jobs and factories and whole industries are inevitable. And there seems no easy way to avoid a degree of personal hardship which, a few months ago, seemed almost unthinkable. Against this background, the basic purpose of S. 1570 to "share the shortages" as fairly as possible seems more valid than ever.

Congress recognized the need to allocate scarce fuels when it authorized the President in the Economic Stabilization Act amendments adopted last April to establish priorities of use and provide for the allocation of crude oil and petroleum products to meet essential needs and prevent anticompetitive effects resulting from shortages. Under this authority, the President inaugurated a voluntary allocation system, which, as we all know, was woefully inadequate to deal with fuel shortages, even before our imported fuel supplies were curtailed.

The failure of the voluntary system was in effect recognized by the administration when it first adopted a mandatory allocation program for propane and then implemented a mandatory program for middle distillate fuels on November 1. I would emphasize, Mr. President, that these existing mandatory programs will

not be disrupted by enactment of S. 1570. The legislation specifically provides that these programs implemented under the authority of the Economic Stabilization Act shall continue in effect until modified pursuant to S. 1570.

S. 1570 goes beyond discretionary authority and mandates action—both by the executive branch and by private industry—to assure the equitable distribution of fuels in short supply.

This act requires the President to prepare and publish priority schedules and plans for the allocation and distribution of fuels which are or may be in short supply. The President is to allocate or distribute such fuels pursuant to these schedules and plans if necessary to achieve the objectives of the act.

The President's authority is to be exercised generally to minimize the impact of fuel shortages or dislocations in the fuel distribution system. More specifically he is required, in implementing his authority under the act, to take such actions as are necessary to protect the public health, safety, and welfare; to maintain public services and essential agricultural operations; to preserve an economically sound and competitive petroleum industry; to provide for equitable distribution of fuels at equitable prices among all regions and areas of the United States and all classes of consumers; to achieve economic efficiency and minimize economic distortion, inflexibility, and unnecessary interference with market mechanisms.

This authority is essential if we are to assure continuation of vital services in the face of critical energy shortages.

The conference report differs from the original Senate bill in a number of respects.

The definition of independent refiner has been expanded, to include definition by percentage of market volume as well as by source of crude, and a category of "small refiner" has been added to the bill. A definition of the United States has been included to assure that possessions of the United States would be covered by this program.

The "dealer day in court" has been dropped from the Senate bill. A dollar-for-dollar passthrough provision has been added from the House bill for net increases in the cost of crude and products.

A provision has been added from the House bill to allow priority consideration for allocation for those users of natural gas who have been curtailed by the FPC. The conference report also accepts House language that, to the extent practicable and consistent with the objectives of the bill, users of liquified petroleum gas may be exempted from allocation if they have no alternative fuel.

And, finally, the conference report provides for a pro rata sharing of shortfalls in refined products and crude, to allow for equitable distribution and to permit new market entries. The bill reflects the conferees' concern that adequate provision be made for crude oil supplies for new or expanded refineries. The assurance of such supplies will make it possible to secure financing for refinery projects and the President is authorized to make adjustments in crude oil allocations for this purpose.

Mr. President, in spite of the differences between the Senate and House bills it is my opinion that the conference report satisfies the goals of the Senate set forth in S. 1570 and will achieve the purposes of requiring essential emergency allocation measures. I urge that the Senate adopt the conference report.

The PRESIDING OFFICER (Mr. HATHAWAY). The Senator from Arizona is recognized.

Mr. FANNIN. Mr. President, I join in the statements of the Senator from Washington, the floor manager of the legislation and chairman of the committee, and commend him for the work in which he was involved in getting this legislation to the committee and through the conference.

Mr. President, S. 1570, the Emergency Petroleum Act of 1973 is the first major congressional design for dealing with our worsening fuel crisis. Historical events have to some degree outrun the scope of the bill—and the Senator from Washington agrees with me that what has happened has caused that to come about—necessitating further steps which will soon be before this body in the shape of S. 2589, the Energy Emergency Act. We will recall that the Senate passed S. 1570 last June, and it was designed to meet the energy problems apparent to us at that time. The explosion in the Mideast and the consequent cutoff of Mideast oil supplies has changed and worsened our situation to a degree demanding further steps and more severe action both by the Congress and the administration. Nevertheless, S. 1570 is necessary and fully appropriate in its own right. S. 2589 is designed to carry forward, on the initial framework provided by S. 1570, the major changes in our circumstances and uses of energy which the national interest now demands. The conference committee of the House and the Senate could take these matters into consideration, since the bill did not go to conference until after the interruption of our Mideast supply.

The success of S. 1570 and its required Executive regulations, requires the wholehearted cooperation of and prompt action by all segments of our oil and gas industry, from the largest of the vertically integrated majors to the smallest of the independent refiners and marketers. In order to obtain this cooperation—which will be willingly given by the industry if it is allowed to do so—it will be necessary in our consideration of S. 2589 that certain accommodations be made with regard to rules and regulations to be established as pertinent to maximizing the cooperation of the industry in helping to effectuate and implement equitable fuels allocation. Since the House version contained no such provisions and it was beyond the authority of the conferees to enlarge the Senate language, and since the breadth and depth of the upcoming emergency was unknown at the time the Senate passed its bill last June, relevant provisions of S. 1570 are obviously insufficient.

For this reason it was the unanimous understanding of the conferees that the problem again would be addressed in S. 2589 on the Senate side and its counterpart or counterparts in the House, and further adjustments made as required to obtain the fullest and widest industrywide implementation.

I would just say that with regard to certain accommodations to be made with regard to rules and regulations to be established as pertinent to maximizing the cooperation of the industry in helping to effectuate and implement equitable fuels allocation, it is necessary, in order to accomplish this, that S. 2589 include those stipulations that we were not able to include in S. 1570, to obtain the fullest and widest industrywide cooperation.

Mr. JACKSON. Was the Senator referring to the problem of antitrust?

Mr. FANNIN. I am referring to the cooperation and assistance that would be necessary. That could involve some stipulations of antitrust.

Just to pose the question, is it not correct that what we are doing in S. 2589 is seeking to accomplish some of the objectives that would perhaps arise in connection with S. 1570? We were not able to do it in S. 1570; we did not have the emergency existing at that time. So in S. 2589 we have gone beyond that point.

Mr. JACKSON. Yes. The Senator is referring to the emergency bill that will come up after this one?

Mr. FANNIN. Yes.

Mr. JACKSON. It is our intention to cover several areas. As the Senator knows, one is to provide grants-in-aid to the States, which are not covered in this bill, to enable them to handle the costs of administration that the States will be obligated to carry out as, in effect, agents of the Federal Government. We are doing this in order to avoid a Federal bureaucracy.

Mr. FANNIN. Yes.

Mr. JACKSON. Then, in addition, we are preparing an amendment to S. 2589, which will relate to the antitrust problem.

Mr. FANNIN. Yes.

Mr. JACKSON. And I hope we will have that ready in time for action tomorrow.

Mr. FANNIN. Yes. I just wanted to bring out that we——

Mr. JACKSON. It is not in this bill.

Mr. FANNIN. Not in this bill.

Mr. JACKSON. I mean in this conference report.

Mr. FANNIN. In the S. 1570 conference report or bill, but we hope it will be covered either within the legislation, or that by the time the amendments are adopted it will be covered.

Mr. JACKSON. The Senator is correct.

Mr. FANNIN. And the Government can have the coordination and cooperation——

Mr. JACKSON. The point is, we did not have the opportunity to take care of it in this bill or in this conference report, but we intend to deal with that problem.

Mr. FANNIN. Yes.

Mr. JACKSON. In connection with S. 2589.

Mr. FANNIN. I thank the distinguished Senator from Washington for confirming my understanding in this matter.

Mr. President, these provisions will not constitute a precedent. What is proposed is primarily an expansion of section 708

of the Defense Production Act of 1950, now limited to the allocation of oil imports for national defense purposes only to cover the overall civil emergency with which we are faced. In other words, section 708 of the Defense Production Act of 1950 allows certain industry cooperation and joint actions which would otherwise be prohibited to occur in the case of oil importations only when required for national defense reasons. S. 1570 and S. 2589, which the Senate will also shortly have under consideration, should extend such exemptions to the allocatory process for all supplies of crude oil and refined products, whether foreign imports or domestically produced.

The report of the conferees also explains the understanding of the conference committee with respect to the authorities conferred on the President by the Economic Stabilization Act of 1970 vis-a-vis the authorities conferred by S. 1570. It was not and is not intended by the conferees that the authority to control prices of crude oil and refined products conferred by section 4(e) of the act should supplant Economic Stabilization Act authority in the realm of oil and gas. Only in cases in which the purposes of the current act cannot be carried out under the former pricing authorities need the President rely solely on the new authority conferred by S. 1570. In other cases he will be able to operate under the authorities conferred by both acts. For purposes of avoiding litigation and controversy, I recommend that both such authorities be cited in the rules and regulations which will be promulgated by the executive branch in carrying out S. 1570.

Mr. President, one other area of the manager's report should be specifically referred to in order that the Senate may have a full understanding of the overall plan and program proposed by S. 1570. Section 4 of the act sets out the requirements of the Mandatory Allocation plan and subsection b(1) of that section requires that the regulations provide for various priorities in such allocations. One of the overriding requirements of any allocation plan is to make full use of the entire refining capacity of the United States. In order to do so the act takes care of the small and independent refiners who do not have their own sources of crude oil supply.

But it should be noted that such allocations might not operate to the prejudice, percentagewise, of the refining capacities owned and operated by the major oil companies. So long as the inflow to U.S. refineries equals or exceeds the 1972 input, the small and independent refiners are to receive at least the amount of their 1972 allocations. If—as we anticipate will occur—the total countrywide input to our refiners falls below that of 1972, then it becomes necessary to "share shortages." If this occurs, the small and independent refiners will still receive their fair share of available supplies, but not to the percentage detriment of the large refiners. As my colleague Senator HANSEN put it, if our total input falls 15 percent below 1972 levels, then each refinery in the country should be operating at 85 percent of its capacity. As shown by section 4(c)(1)(B) of S. 1570, the reductions must be prorated. The intentions of the conference committee in this regard and indeed its intentions in how the allocation scheme, provided by the act, will generally be implemented by the administration are explained on pages 3 to 8 of the managers' report.

Mr. President, S. 1570, the Emergency Petroleum Allocation Act of 1973 presents a first step toward meeting our present dilemma. Its inadequacies can be partially rectified in S. 2589. But even that act fails to provide proper incentives to stimulate supply. Thus, in S. 1570 we are merely spreading shortages around.

Mr. HANSEN. Mr. President, who has the floor?

Mr. JACKSON. Mr. President, I have the floor. I yield to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished colleague the chairman of the Committee on Interior and Insular Affairs, very much for his graciousness in yielding to me.

Mr. President, all of us are concerned and deeply disturbed over the growing energy crisis in the United States. There are some among us who have felt for some several years that the direction we were taking would lead to catastrophe. Earlier, a few years ago, these warnings were falling upon deaf ears, and instead of taking heed or even bothering to look into the situation, each person for himself, it was easy to brush aside the remarks that were being made as simply parroting the best interests of the oil companies in America.

I think that no one needs to recognize that some of the warnings made several years ago were, indeed, prophetic. The unfortunate thing is the situation is even more serious than some of us at that time had believed it might develop into being.

Japan is faced with a very critical situation today. No one needs to tell the Japanese how serious it is. They are making all sorts of predictions as to what the extreme impact of being denied the petroleum and oil supplies they have been able so far to acquire throughout the rest of the world will have on their economy.

So, in that general framework of a widening and growing international concern over the energy crisis, we are taking up this bill today.

Let me say that the Committee on Interior and Insular Affairs has been very active. We have actually dealt with six different pieces of legislation this year. They are S. 268, the Land Use Policy Planning and Assistance Act. S. 425, the Surface Mining Reclamation Act. S. 1570, the Emergency Petroleum Allocation Act—now before us. S. 1081, the Federal Land Right-of-Way Act—that is the Alaskan pipeline. S. 2176, the National Fuels and Energy Conservation Act. S. 2589, the National Energy Emergency Act.

Mr. President, what disturbs me is that all of us in this country know we are going to be faced with some very serious and critical problems this winter, problems that go beyond the closing of factories, the suspension of jobs, the drying up of income, problems that go right to the heart of life in America, that threaten there will not be enough fuel to keep homes in America warm this winter, that schools will undoubtedly have to be closed, that store hours and business activities generally will be curtailed in order to accommodate America's lifestyle in this time of emergency to a very greatly shortened supply of energy. These are some of the prospects that we are looking at today.

It is because of this fact that, with the exception of the Alaska pipeline bill, Mr. President, not one of the actions we have taken so far really addresses the problem of supply. I am disturbed because that is the case.

The distinguished Senator from Oklahoma (Mr. BARTLETT) was able to get an amendment to the Alaska pipeline bill which exempted from control by the Cost of Living Council, and from other impositions that otherwise would apply to production from the stripper wells in this country, that amount of petroleum that comes into the marketplace. As a consequence, because of his efforts, which were in the main opposed by many members of the Committee on Interior and Insular Affairs, we did do something about supply.

The fact is, Americans will be very grateful to the Senator from Oklahoma (Mr. BARTLETT) this winter that his stripper well amendment was tied into the bill, because it will mean simply that this will be oil that can be used this winter—now. We do not have to drill any more wells. We do not have to explore the Outer Continental Shelf in areas where we have not, so far, explored there.

All we have to do is to let the price rise so that it will continue to be economically feasible for stripper well operators to produce the oil that without the relief that comes from being freed from price controls they would be leaving in the ground.

It is just that simple.

Whenever it costs as much to bring the oil above ground as the oil sells for, at that point in time any intelligent operator in the oil business—and they are all intelligent—will close that well down.

So America had the hard choice to make. It really was not a hard choice, because we did not give the average American any chance to make that choice, but if we had, I am certain that there would have been no doubt at all in the minds of nearly everyone of the 210 million of us that we would rather have fuel at a higher price than to have frozen water pipes, to have cold homes, to have stores closed and factories closed and people out of jobs, and cars and trains and ships and planes unable to move. Yet that was the prospect. I was surprised that there were as many people as was the case in Congress who failed to understand and appreciate the seriousness of the issue they faced.

I am equally disturbed, because we do not yet, some of us, seem to understand

the workings of the economy that we have in the United States of America.

When the Defense Production Act was passed a number of years ago, we recognized then that if we wanted to have enough of anything that might be in short supply and that was critical to this country, the best way to get it was to guarantee a price for it. It worked, because back in World War II, this idea was brought into being when, despite the fact that most farms and ranches in America were practically without help, we knew we had to have food.

What did we do at that time?

The Government of the United States guaranteed a price for wheat. When it guaranteed that price for wheat, it stimulated an effort such as this country has seldom made in its nearly 200 years of history, an outpouring from the farms of America which met the challenge of World War II. We were able to feed not only our own people, our troops at home and overseas, but other nations as well.

Now we are not going to solve the energy crisis by taking the narrow, myopic view that all we really want to deal with is simply to try to spread the misery around. Yet, so far, with the exception of the Alaskan pipeline legislation, that is about all we are doing. That is just about all we are doing, spreading the misery around.

I say that America has the brains, America has the initiative, and America will respond to the challenge to find more oil.

Why do I say that?

There are many reasons, Mr. President. One is that a lot of Dr. William Pecora's testimony, barely more than a year and a half ago, bore out that, in his judgment, being the distinguished geologist he is, head of the U.S. Geodetic Survey and later Under Secretary of the Interior, there was still to be found in America probably as much as 100 times the amount of oil and gas this Nation used in all of 1971.

I know the time is growing late, and I am fully aware of it, but I think it is important for people to understand what the issue is.

I am going to say this, because I do not want someone coming here this winter saying we have failed to understand the situation.

There will be plenty of people questioning Congress this winter when there is no oil to heat homes, when the water pipes become frozen, or when jobs dry up, because there is no energy to run the plants, or when schools close. There are going to be plenty of questions asked of this Congress, such as, "Why did you not do something about it?"

The fact is, we have not done very much about it. Certainly we can do a lot more about it.

What can we do?

If we had the good sense—and that is all that is required—to turn this industry loose and recognize the fact that it costs a lot more to drill a well now than it did a few years ago and that no one in his right mind will go out and try to discover a gas well when up until a few months ago the Federal Power Commission put a lid on the price of gas that resulted in its costing more to drill a well for natural gas than the natural gas would be worth at the price the Federal Power Commission permitted it to be sold. So that is going to be part of the reason why we can do something about it.

I know that our drilling activity for petroleum supplies generally has dropped off. If we compare 1956 with 1972, we are drilling about half the number of wells we drilled in 1956. Yet, our consumption of energy has been four times as much. So, really, if we had been interested in keeping up with the energy supply in the United States, we should have been drilling four times as many wells as we were drilling.

The way we can get interest back in that drilling is to make it more profitable for people to drill. Yet, we hear the statement that the oil companies are running in money, that profits are way up. What many people do not stop to realize is that there are all kinds of oil people. There are big, major companies, and they have had properties expropriated in the Middle East. In the continental United States, on the other hand, we have many people—mostly independents—who discover between 75 and 80 percent of all our wells here. They have not been all that prosperous, I know. We have many of them in Wyoming. I know how activity there has dropped off. It has dropped off simply because the average profit that the independent oilman made on his investment ranged from approximately 3.5 to 6.5 percent.

When that has been the fact, there has been little reason for people to put their money in that kind of activity, drilling these wildcat wells, to try to find them, when they could do better any other place. That is exactly what American businessmen have done. These independent oilmen depend upon others in their communities for drilling funds. They go to all kinds of people who may have some surplus money; and unless the oilmen are able to demonstrate that it is a good risk to put money into that kind of operation, the people are not going to invest. The fact is that it has not been a good risk, because the return on that sort of activity, as I say, has been between 3½ and 6½ percent.

One of the reasons why I am concerned about this bill is that we talk about trying to solve the energy crisis by exceeding the maximum efficient rate of production. Some people probably do not know what is meant by the maximum efficient rate. That is the rate of production at which an oil well can be produced so as to assure the recovery of most of the oil that is in the ground. We only get about a third of the oil that is in the ground now, with our present technology. That rate is fixed after consultation with engineers, with petroleum geologists, by State regulatory agencies, in cooperation and in consultation with the U.S. Department of the Interior people in most areas. So that it is not a rate that is made by the oilman. It is a rate of production that is arrived at, in the hope to set the figure at which a well may be produced and above which it should not be produced if you want to get as much of the oil out of the ground as you can.

When we talk about trying to solve an energy problem that all experts say will extend for a period of several years, it makes no sense at all to me to talk about and to make provision for exceeding the maximum efficient rate. Yet, in other legislation we have before us, that is what is done.

A second problem arises there, and that comes about, because a taking has been achieved when the Government orders that we exceed the maximum efficient rate. What it means is that the person who owns the oil lease or who, indeed, may own the oil, if he owns the land in fee simple, is not going to be getting as much of his oil above ground as could be gotten above ground. So this is important. It is important not only because we will not get all the oil we can otherwise get, but also because in exceeding the maximum efficient rate, we can actually be taking a person's property, because we are denying him the opportunity to get all or as much of the oil out of the ground as he should get out of the ground.

I will vote for this bill with reluctance, because I know that the public generally believes that many of the things that are called for in it will be good. I understand that when you face an emergency situation, as we do, it is inevitable that many innocent people are going to be hurt. I want to do what I can to help that situation. But I do deplore the fact that, for whatever reasons each of us may have in his own heart, we have not had the courage or the good judgment yet, outside of authorizing the Alaskan pipeline, to take any significant action that addresses the problem of supply.

If the Japanese had the options we have, if almost any other country in the world had the options we have, my guess is that they would respond differently from the way we are responding.

We will have to come around, sooner or later—mark my words—to doing some of the things I am talking about here today. We have oil prospects all over the continental United States, on the Outer Continental Shelf, that we are not trying to get into production in an aggressive fashion.

The other fact impinges upon this supply situation, and that is the impact of NEPA legislation. It has been agreed, I understand, by the committee managers and those on the Committee on Public Works that we will leave it up to the Committee on Commerce to write any suggested changes or exemptions that may apply to NEPA in order to shorten the time given those who may raise environmental questions that delay taking the actions I think the United States should take.

Mr. President, I hope that people throughout America will understand what the energy situation is and will respond in a fashion so as to call to the attention of Members of Congress in a way that cannot be misunderstood that, while they support those actions which will help spread the misery around, they would hope very much that we would have the courage and the foresight and

the good commonsense to recognize that we will not correct the problem until we get at the basic issue of improving supply.

I thank the distinguished Senator from Washington.

Mr. JACKSON. Mr. President, I yield to the able Senator from North Carolina such time as he may require.

Mr. HELMS. Mr. President, I simply want to commend the distinguished Senator from Wyoming. He touched on a facet of this situation that very much needs to be discussed with the American people, so that they may understand the origin of the problem.

I think the Senator from Wyoming will agree that we are in this crisis today, because Government has been trying to improve on free enterprise.

What has happened in this fuel crisis is what will happen each time the Government meddles and interferes with the process of free enterprise. I, like the Senator from Wyoming, shall vote for the conference report. I shall do so reluctantly because of the same defects and the same situations he so eloquently discussed.

But I wish to call attention to one feature of the conference report which I briefly acknowledge as probably being helpful to the people of my State. I refer to the language found on page 4, in paragraph 3 of section 4. For the record, I wish to read it at this time so there will be no mistake about it:

(3) The President in promulgating the regulation under subsection (a) shall give consideration to allocating crude oil, residual fuel oil, and refined pretroleum products in a manner which results in making available crude oil, residual fuel, or refined petroleum products to any person whose use of fuels other than crude oil, residual fuel oil, and refined petroleum products has been curtailed by, or pursuant to a plan filed in compliance with, a rule of water of a Federal or State agency, or where such person's supply of such other fuels is unobtainable by reason of an abandonment of service permitted or ordered by a Federal or State agency.

I hope it is understood by the Senate that this is a message to the President, because of the situation that exists in my State and many other States with respect to natural gas customers operating on an interruptible contract.

Under a Federal Power Commission ruling that was to have taken effect on November 16, hundreds of factories in North Carolina would have been closed and thousands of wage earners thrown out of work because of lack of gas for heating and processing. The State of North Carolina has brought suit against the FPC and, after the entire North Carolina congressional delegation joined in as amicus curiae, a stay was obtained in the District of Columbia Court of Appeals. If we lose this suit, the situation will be grave. But even if the State of North Carolina wins this suit, it will require many millions of gallons of fuel oil to take up the slack if further curtailment is required. But under any curtailment ordered by a Federal or State agency, these customers would get high priority for other fuel allocations.

This is the way the measure provides relief for these people and businesses that otherwise would have to go out of business. I hope the record is clear that the President's opportunity and duty is to make certain that this particular section is implemented.

Mr. JACKSON. Mr. President, I ask unanimous consent to have printed in the RECORD letters from Dr. John Dunlop, Director of the Cost of Living Council, and Gov. Daniel Evans of the State of Washington, Chairman of the National Governors' Conference, concerning S. 1570.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ECONOMIC STABILIZATION PROGRAM,
COST OF LIVING COUNCIL,
Washington, D.C., November 13, 1973.

Senator HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR JACKSON: The purpose of this letter is to confirm my understanding of the intentions of Congress in enacting various provisions of the Emergency Petroleum Allocation Act of 1973 (S. 1570) as they are affected by the Economic Stabilization Act of 1970, as amended and the amendments to Section 28 of the Mineral Leasing Act of 1920, authorizing the Trans-Alaska Pipeline (S. 1081).

I. STRIPPER WELL EXEMPTION

Both the Trans-Alaska Pipeline Bill (hereinafter referred to as "the pipeline bill") and the Emergency Petroleum Allocation Act (hereinafter referred to as "the allocation act") contain provisions for exempting from price controls so-called stripper wells—i.e., those wells producing 10 barrels a day or less. The language of the two bills, though similar in many respects, contains several important differences. Section 406(a) of the pipeline bill provides as follows:

"The first sale of crude oil and natural gas liquids produced from any lease whose average daily production of such substances for the preceding calendar month does not exceed ten barrels per well shall not be subject to price restraints established pursuant to the Economic Stabilization Act of 1970, as amended, or to any allocation program for fuels or petroleum established pursuant to that Act or to any Federal law for the allocation of fuels or petroleum."

The comparable provision in Section 4(e)(2)(A) of the allocation act provides as follows:

"The regulation promulgated under subsection (a) of this section shall not apply to the first sale of crude oil produced in the United States from any lease whose average daily production of crude oil for the preceding calendar year does not exceed ten barrels per well."

You will note that the pipeline bill refers to both "crude oil and natural gas liquids" whereas the allocation act refers only to "crude oil." In addition, you will note that the pipeline bill embodies a base period for determining eligibility for the exemption expressed as the average daily production "for the preceding calendar month" while the allocation act contains a base period expressed in terms of average daily production "for the preceding calendar year."

It is my understanding that in enacting a stripper well exemption as part of the allocation act which differs from a similar provision previously enacted as part of the pipeline bill, it is the intention of Congress to pre-empt the earlier provision by the later provision and that once the exemption established by the allocation act is implemented, the exemption previously enacted as part of the pipeline bill will no longer be of any force or effect.

Further, it is my understanding that the term "crude oil" as used in Section 4(e)(2) of the allocation act is intended to encompass all crude petroleum produced at the wellhead, including both crude oil and crude oil condensates including natural gas liquids such as propane, butane, and ethane. The term is clearly not intended to include natural gas, however. Natural gas production and pricing would continue to be regulated by the Federal or state agency having jurisdiction over such production.

In some cases, through adjustments in the production process it is possible to vary the proportion of crude oil and crude oil condensates that are ultimately produced at the wellhead. If the exemption were construed to apply only to crude oil itself and not crude oil condensates, there would be an incentive to modify the production process to gain advantage of the exemption. Some of the production process modifications that might result in an effort to maximize crude production and minimize condensate production could be counter productive in terms of maximizing total recovery from a reservoir.

It is my understanding that it is the intention of Congress not to permit this form of "gaming" of the exemption, but that rather it is the intention of Congress to embody within the term "crude oil" as used in Section 4(e)(2) of the allocation act both crude oil and crude oil condensates produced at the wellhead.

I also note that the language of the Conference Report accompanying the pipeline bill contains specific admonitions to the administering agency to construe strictly the language of the exemption to accomplish the supply-enhancement objectives of the exemption and to insure that the exemption is not in any way broadened. Specifically the Report states:

"Congress specifically intends that the regulations shall, among other things, prevent any 'gerrymandering' of eases to average down high production wells with a number of low production stripper wells to remove the high production wells from price ceilings. The sole purpose and objective of this Section 406 is to keep stripper wells—those producing less than ten barrels per day—in production and to insure that the crude oil they produce continues to be available for U.S. refineries and U.S. consumers. It is not intended to confer any benefit on the owners and operators of wells producing in excess of ten barrels per day."

I have attached the pertinent language from the Conference Report as Appendix A to this letter. It is my understanding that in enacting the stripper well exemption as part of the allocation act, that the Congress intends that the same considerations as those set out in the pipeline bill Conference Report shall be applied by the administering agency.

II. PRICING PROVISIONS

Section 4(a) of the allocation act contains authority to issue regulations specifying or prescribing prices for crude oil, residual fuel oil and each refined petroleum product. This authority is separate and apart from the authority to stabilize prices for these and other products contained in the Economic Stabilization Act of 1970, as amended.

It is my understanding that in enacting the authority to control prices in Section 4(a) of the allocation act, it is not the intention of Congress to pre-empt the field and extinguish the authority to control prices in the petroleum industry under the Economic Stabilization Act. Rather, it is my understanding that the two authorities are to have coincident applicability. I am mindful of the purpose expressed at page 26 of the Conference Report on the allocation act that "Congress intends to force the Administration to rationalize and harmonize the objectives of equitable allocation of fuel,

with the objectives of the Economic Stabilization Act." But it is my understanding that in the language which follows that sentence, the Congress is expressing its intention to continue the applicability of price control authority in the petroleum industry pursuant to the Economic Stabilization Act. Thus, so long as the Economic Stabilization Act remains in effect and is invoked with respect to the petroleum industry, prices in that industry would be subject to control under the authority of both the Economic Stabilization Act and the allocation act and the administering agency which has been delegated price control authority under both statutes would be obligated to comply with the provisions of both. Of course, should the Economic Stabilization Act, which expires on April 30, 1974, not be extended, then the authority of the allocation act would constitute the exclusive basis for controlling prices in the petroleum industry.

In that connection, it is my understanding that, assuming the Phase IV price regulations in the petroleum industry are continued, the provisions of Section 150.354 of those regulations providing for release from crude petroleum ceiling price rules of new crude petroleum and base production control level crude petroleum would not be deemed inconsistent with or require modification because of the language of Section 4(a) of the allocation act which refers to "prices specified in (or determined in a manner prescribed by)" the regulation therein provided for.

III. PERSONNEL PROVISIONS

Section 5(a) of the allocation act as reported by the Conference Committee provides, among other things, that certain personnel authorities contained in the Economic Stabilization Act of 1970 shall apply to functions under the Emergency Petroleum Allocation Act of 1973 to the same extent such authorities apply to functions under the Economic Stabilization Act of 1970. It is my understanding that the intent of this provision is to establish personnel authorities in addition to those now used by the Economic Stabilization Program and not to require that these existing authorities be shared with whatever agency is designated to carry out the provisions of this bill. Specifically, it is my understanding that the Congress intends by this provision to authorize the placement of not to exceed twenty positions in GS–16, 17, and 18 in addition to the number of positions which may be placed in those grades under Section 5108 of title 5, United States Code, in order to carry out functions under the Emergency Petroleum Allocation Act of 1973, without requiring a reduction in the number of positions currently authorized pursuant to Section 212(d) of the Economic Stabilization Act of 1970 for carrying out functions under the Economic Stabilization Act.

We appreciate the opportunity to express our views on this subject and I urge you to contact me or my colleagues at the Cost of Living Council if we may furnish any further information.

Sincerely,

JOHN T. DUNLOP,
Director.

EXCERPT FROM CONFERENCE REPORT ACCOMPANYING S. 1081 AMENDING SECTION 28 OF THE MINERAL LEASING ACT OF 1920, AND TO AUTHORIZE THE TRANS-ALASKA PIPELINE

15. Section 406, relating to stripper oil wells, was a Senate floor amendment to S. 1081. The Conferees have adopted the general concept of the floor amendment, but have added new provisions to insure that the exemption is narrowly defined and prudently administered, and to insure that the incentive being granted is properly limited in accord with congressional intent.

The purpose of exempting small stripper wells—wells whose average daily production does not exceed ten barrels per well—from the price restraints of the Economic Stabilization Act (now in Phase IV) and from any system of mandatory fuel allocation is to insure that direct or indirect price ceilings do not have the effect of resulting in any loss of domestic crude oil production from the premature shutdown of stripper wells for economic reasons.

As of January 1, 1973, there were 350,000 stripper wells producing ten barrels a day or less. Stripper wells account for 71 percent of all of the oil wells in this country, but produce an average of only 3.6 barrels per day, or only 13 percent of total U.S. domestic crude production.

Many stripper wells are of only marginal economic value. When the costs of their operation exceeded the value of their production, they are shut in, and a known and developed crude oil reserve is lost to U.S. production. Removing Phase IV price restraints from these marginal stripper wells has the effect of increasing the value of the crude oil they produce by about $1.30 per barrel (the difference between $4.02, the current per-barrel ceiling average under Phase IV, and $5.32, the per-barrel average price for "new" domestic crude oil production which is not subject to Phase IV). This price incentive will encourage owners and operators of stripper wells to maintain production and to keep these wells in operation for longer periods of time than would be possible if the value of their crude oil production were determined under Phase IV price ceilings. This increased incentive will, it is anticipated, permit stripper well operators to make new investments in the eligible wells and improve the gathering and other facilities for moving this oil to market.

The words "first sale" in Section 406(a) refer to the initial sale from the producer to a refiner, oil broker or other party. Thereafter, the exemption expires and any applicable provision of the Economic Stabilization Act or any mandatory allocation program may apply.

The exemption also runs only to "crude oil and natural gas liquids." It does not run to natural gas produced by these wells. Natural gas production and pricing continue to be regulated by the Federal or State agency having jurisdiction over the particular wells involved.

The Congress intends that the provisions of this section will be strictly enforced and regulated by the administering agency to insure that the limited exemption of this class of wells for the express purposes described above is not in any way broadened. To achieve this, Congress authorizes on-site inspections to insure compliance. Congress also directs that the administering agency shall promulgate regulations to implement the provisions of this section before it becomes operative. The Conferees expect the administering agency to utilize State data regarding production volumes, and to provide by regulation safeguards against the manipulation of gerrymandering of lease units in a manner that evades the price control and allocation programs.

These regulations shall be so designed as to provide safeguards against any abuse, overreaching or altering of normal patterns of operations to achieve a benefit under this section which would not otherwise be available. Congress specifically intends that the regulations shall, among other things, prevent any "gerrymandering" of leases to average down high production wells with a number of low production stripper wells to remove the high production wells from price ceilings. The *sole* purpose and objective of this Section 406 is to keep stripper wells—those producing less than ten barrels per day—in production and to insure that the crude oil they produce continues to be available for U.S. refineries and U.S. consumers. It is not intended to confer any benefit on the owners and operators of wells producing in excess of ten barrels per day.

The Congress also intends that the regulations provide appropriate limitations and provisions in the definition of "lease" to insure that an administratively workable system is established which does not permit abuse.

OFFICE OF THE GOVERNOR,
Olympia, Wash., November 13, 1973.

Re S. 2589.

Hon. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, Old Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for the opportunity to discuss the above-captioned bill with you yesterday. As I mentioned, the States have a vital interest in the terms of this measure and the ways in which emergency procedures may be devised and implemented in the energy field.

Under the terms of the Regulations issued for Allocation of the Middle Distillates, every State has been asked to establish procedures for administering a hardship reserve. This has meant setting up machinery, recruiting personnel and making offices and special telephone lines available to carry out our responsibilities. At this point in time, it is impossible to estimate exactly how much will be required in each State to carry forth the responsibilities for Middle Distillates. I can only tell you that the costs are being borne out of emergency State funds and, in most cases, personnel and facilities dedicated to other purposes have been diverted to this task.

In addition to the burdens involved in the allocation program, most States have also become active in the quest to conserve energy. From Washington to Florida and from California to Connecticut, States have invested their funds and personnel resources to devise and implement programs of conservation. These have been innovative and effective. They have included prohibitions on outdoor lighting, lowering of speed limits, revisions of temperature settings in public buildings, encouragement of revisions of shopping hours in commercial establishments and provisions to make it easier for home owners to increase insulation and installation of storm doors and windows. Public awareness programs have been undertaken and research for new energy sources and wiser use of existing resources have been underwritten in whole, or in part, by dozens of States.

I have recited the foregoing record to illustrate the desirability of inclusion of provisions in the above-captioned bill for financial aid to the States so that they can play the most effective role in the effort to bring supply and demand into some rational balance. A spot check of the States indicates that in moderate sized States such as Maryland and Georgia, the total personnel complement committed directly to the allocation and conservation programs will total about 20 clericals and 10 professionals per year. This approximates $350,000 a year per State in direct salaries and at least 25 percent more in indirect costs for this complement—a total of more than $400,000 a year. This outlay comes in a period when State legislatures have not met and before any new responsibilities are entrusted to the States under the terms of the above-captioned bill and S. 1540 and the regulations which the Administration will issue pursuant to them.

I am in the process of canvassing the States to determine more closely the personnel complement each of them anticipates under existing programs and can only guess at the ancillary costs of such programs as reducing speed limits and enforcing other conservation measures. This is all over and

above the research efforts at State academic institutions and those coordinated by science advisors to the Governors and the State legislatures. I would note that the Western Governors have not only not shrunk from the responsibilities this crisis has thrown on their shoulders but they have sought a voice in the program for allocation of propane.

It is also safe to assume that the President will delegate additional responsibilities and duties to the States under the terms of Section 5(b) of S. 1570 as reflected in the Conference Report for that bill (House Report 93-628). The States do not seek to avoid such new responsibilities—they readily accept them because the States have a unique capacity to identify vital needs and priorities in their own jurisdictions and to make the decisions which will carry forward the purposes of an allocation and imaginative conservation program.

Although there is broad authorization given to the President to draw up Regulations we would like some assurance that States could have a set-aside of Middle Distillate fuels to use for emergency assistance. The existing procedures preclude States from purchasing fuels for resale or arranging for suppliers to hold back some fuels to respond to emergencies. Informal cooperation of suppliers and distributors has been helpful. However we cannot rely on this base in the months ahead when supplies fall even further behind demand.

I am meeting with the Executive Committee of the National Governors' Conference and the New England Governors tomorrow and I have every confidence that I speak for them in the observations contained in this letter. Moreover, the National Governors' Conference has established an Energy Policy Project which is actively working not only with the States and federal government, but also with county and city governments. We are trying to make certain that each State is as effective as possible and that regional cooperation is facilitated. We are in the midst of a canvass of every State to determine the resources it will require to carry out its responsibilities. We should have the results within the next two days and will forward them to you.

On behalf of the National Governors' Conference and as Governor of our own State I look forward to working with the Congress and the Administration as well as other units of government and many private citizens and organizations as we go about the important work of refining a viable national policy and programs which are needed to implement such a policy for a problem that will be with us for years to come.

Sincerely,

DANIEL J. EVANS,
Chairman, National Governors' Conference.

Mr. JACKSON. Mr. President, Governor Evans is concerned over the need for a grant-in-aid program to assist the States in fulfilling their responsibilities under the act.

While the conference report does not so provide, a provision to achieve this purpose was adopted by the committee on Monday in connection with the consideration of S. 2589, the Energy Emergency Act of 1973.

Dr. Dunlop's letter concerns the interpretation of certain sections of the conference report. I concur and I believe it was the intent of the conference committee to concur in the interpretation Dr. Dunlop places on the language of the report.

Mr. STEVENS. Mr. President, I would like to clarify one point in the allocation provisions of this legislation. Does the term "public service" in section 4(b)(1)(b) include "the transportation and delivery of mail by the U.S. Postal Service, its lessors, rural carriers, contractors, and air carriers"?

I seek this clarification because it is essential that the transportation and delivery of mail have a high priority in the allocation of fuel. In my capacity as a member of the Post Office and Civil Service Committee, I have become aware of several factors which make it essential to the well-being of the Nation that Congress make it clear that the transportation and delivery of mail is to be included within the priority provisions of this legislation.

Prompt delivery of the mail depends upon the efforts of thousands of small businessmen who hold contracts with the Postal Service for highway and air taxi mail transportation. Without expression of congressional intent that the transportation and delivery of the U.S. mail is a priority item for the allocation of fuel during the coming winter, these thousands of key contractors may not be able to obtain sufficient fuel for their vehicles and the entire mail system may be seriously impaired. Many inhabitants of rural America who depend upon star route box delivery to bring them their mail may be literally cut off from the outside world.

Absent congressional intent that a priority fuel allocation status be given to the transportation and delivery of mail, postal contractors may find themselves forced to procure their fuel piecemeal—literally driving from pump to pump trying to get enough fuel to complete an important mail run. The resulting slowdown in the carriage of mail to and from processing centers would greatly increase the costs of mail processing by disrupting the steady volume of mail necessary for the efficient operation of Postal Service facilities. This situation could literally cripple mail service during the high volume Christmas season period.

The Postal Service supplements its own delivery fleet with up to 82,000 vehicles leased from commercial sources and from mail carriers themselves. Without specific mention of the priority fuel allocation status of mail delivery, the owners of these vehicles may not be able to obtain sufficient fuel to operate them. This will not only hamper mail delivery, but will also contribute to the deterioration of postal labor relations with those employees who lease their own vehicles to the Postal Service.

Under the previous voluntary system of fuel allocation, the Postal Service had increasing difficulty in finding dealers willing to enter long-term contracts to supply fuel for postal vehicles. The lack of specific mention of mail transportation in the list of activities enjoying priority status in the allocation of fuel was a great disadvantage in this regard. An expression of congressional intent that mail transportation be included within priority status in fuel allocation will prevent the recurrence of this problem.

As you know, Postmaster General Klassen recently publicized nationwide mail delivery standards and he has made a strong commitment to meet those standards. The Postal Service cannot meet these commitments it has made to the American public unless the fuel necessary to carry out its task is made available. Therefore, I should like to direct a question to the chairman of the committee. Am I correct in assuming that it is our intent to include delivery of mail by the U.S. Postal Service, its lessors, rural carriers, contractors, and air carriers within the priority fuel allocation provisions of this legislation?

Mr. JACKSON. The Senator is absolutely correct. It should be made clear that the Postal Service is one of the vital public services included in section 4(h)(i)(k) of the bill.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Massachusets (Mr. KENNEDY), the Senator from Utah (Mr. MOSS), the Senator from Wisconsin (Mr. NELSON), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Nevada (Mr. BIBLE), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. HUMPHREY) and the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Nebraska (Mr. CURTIS) is absent by leave of the Senate on official business.

The Senator from Colorado (Mr. DOMINICK), the Senator from Oregon (Mr. PACKWOOD), the Senator from Ohio (Mr. SAXBE), the Senator from Pennsylvania (Mr. SCHWEIKER) and the Senator from Virginia (Mr. WILLIAM L. SCOTT) are necessarily absent.

If present and voting, the Senator from Nebraska (Mr. CURTIS) and the Senator from Oregon (Mr. PACKWOOD) would each vote "yea."

The result was announced—yeas 83, nays 3, as follows:

[No. 481 Leg.]

YEAS—83

Abourezk	Fannin	McGovern
Aiken	Fong	McIntyre
Allen	Fulbright	Metcalf
Baker	Goldwater	Mondale
Bayh	Gravel	Montoya
Beall	Griffin	Muskie
Bellmon	Gurney	Nunn
Bennett	Hansen	Pastore
Bentsen	Hart	Pearson
Biden	Hartke	Pell
Brooke	Haskell	Percy
Burdick	Hatfield	Proxmire
Byrd, Harry F., Jr.	Hathaway	Randolph
	Helms	Ribicoff
Byrd, Robert C.	Hollings	Roth
Cannon	Hruska	Scott, Hugh
Case	Hughes	Sparkman
Chiles	Inouye	Stafford
Church	Jackson	Stevens
Clark	Javits	Stevenson
Cook	Johnston	Symington
Cotton	Long	Taft
Cranston	Magnuson	Thurmond
Dole	Mansfield	Tower
Domenici	Mathias	Tunney
Eagleton	McClellan	Weicker
Eastland	McClure	Williams
Ervin	McGee	Young

NAYS—3

Bartlett	Brock	Buckley

NOT VOTING—14

Bible	Kennedy	Schweiker
Curtis	Moss	Scott, William L.
Dominick	Nelson	Stennis
Huddleston	Packwood	Talmadge
Humphrey	Saxbe	

So the conference report was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. FANNIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ENERGY EMERGENCY ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 473, S. 2589. I do this so that the bill will be the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

Calendar No. 473, S. 2589, a bill to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill, which had been reported from the Committee on Interior and Insular Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "National Energy Emergency Act of 1973".

TITLE I—STATEMENT OF FINDINGS AND PURPOSES

SEC. 101. FINDINGS.—The Congress hereby determines that—

(a) shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(b) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;

(c) such shortages and disclocations jeopardize the normal flow of interstate and foreign commerce and constitute a nationwide energy emergency which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(d) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(e) interruptions of energy supplies, both in the near term and in the future, will require emergency measures to reduce energy consumption, increase domestic production of energy resources, and provide for equitable distribution of available supplies to all Americans;

(f) the development of a comprehensive energy policy to serve all of the people of the United States necessitates the regulation of intrastate delivery and use of energy resources, other than natural gas, in order to insure the effective regulation of interstate and foreign commerce in energy;

(g) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing emergency fuel shortage contingency plans lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act.

SEC. 102. PURPOSES.—The purpose of this Act is to—

(a) declare by Act of Congress an energy emergency;

(b) grant to the President of the United States, and direct him to exercise, specific temporary authority to deal with shortages of crude oil, residual fuel oil, and refined petroleum products, and other fuels, or dislocations in their national distribution system;

(c) provide a national program to conserve scarce energy resources, through mandatory and voluntary rationing and conservation measures, implemented by Federal, State, and local governments;

(d) protect the public health, safety, and welfare and the national security, and to assure the continuation of vital public services and maximum employment in the face of critical energy shortages;

(e) minimize the adverse effects of such shortages or dislocations on the economy and industrial capacity of the Nation;

(f) insure that measures taken to meet existing emergencies are consistent, as nearly as possible, with existing national commitments to protect and improve the environment in which we live; and

(g) direct the President and State and local governments to develop contingency plans which shall have the practical capability for reducing energy consumption by no less than 10 per centum within ten days and by no less than 25 per centum within four weeks of any interruption of normal supply.

TITLE II—EMERGENCY FUEL SHORTAGE CONTINGENCY PROGRAMS

SEC. 201. DECLARATION OF EMERGENCY.—The Congress hereby declares that current and imminent fuel shortages have created a nationwide energy emergency.

SEC. 202. PRESIDENTIAL AUTHORIZATION.—(a) The President is hereby authorized and directed to implement emergency fuel shortage contingency programs as provided for in this title.

(b) For the duration of the energy emergency, the President is further authorized to enter into appropriate understandings, arrangements, or agreements with foreign states, or foreign nationals, or international organizations, to adjust and allocate imports of fossil fuels, or take such other action as he deems necessary, with respect to trade in fossil fuels, in order to achieve the purposes of this Act. Any such formal agreement shall be submitted to the Senate of the United States, and shall be operative, but shall not become final until the Senate has had fifteen days, no less than seven of which shall be legislative days, to disapprove of such agreement.

(c) The declared nationwide energy emergency and the authority granted by this Act shall terminate one year after the date of enactment of this Act. Six months after the date of enactment of this Act, the President shall submit to the Congress an interim report on the implementation of the Act, together with such recommendations for amending or extending the Act as he deems appropriate.

SEC. 203. EMERGENCY FUEL SHORTAGE CONTINGENCY PLANS.—(a) Not later than fifteen days after the date of enactment of this Act, the President shall promulgate a plan for a nationwide emergency energy rationing and conservation program. Such program shall assure, insofar as is practicable, that all vital services will be maintained and that unnecessary energy consumption will be curtailed.

(b) The rationing and conservation program provided for in subsection (a) shall include the following:

"(1) an established priority system and plan, including a program to be implemented without delay, for rationing of scarce fuels quantitatively and qualitatively among distributors and consumers for the duration of the emergency. To the extent practicable such priority and rationing program shall include, but not be limited to, measures adequate to insure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impacts on public health; and

(2) measures capable of reducing energy consumption in the affected area by no less than 10 per centum within ten days, and by no less than 25 per centum within four weeks after implementation. Such measures shall include, but are not limited to: transportation control plans; restrictions against the use of fuel or energy for nonessential uses such as lighted advertising and recreational activities; a ban on all advertising encouraging increased energy consumption; limitations on operating hours of commercial establishments and public service, such as schools; temperature restrictions in office and public buildings, including wholesale and retail business establishments; and reductions in speed limits.

(c) Within two weeks of the date of enactment of this Act, the President shall also promulgate requirements for emergency energy conservation and contingency programs to be developed by each State and major metropolitan government, to implement the Federal program described in subsection (a) above. Such programs, which must be developed within eight weeks after the date of enactment of this Act and submitted for approval to the President, shall include at a minimum the provisions set forth in subsection (b) above. The President shall approve and direct the States to implement those State plans or portions thereof which he determines meet the requirements of this section for emergency energy conservation and contingency programs and which are necessary to deal with the energy shortage conditions facing the Nation.

(d) In the event that a State or major metropolitan government fails to design and implement a contingency program as provided for in subsection (c), the Federal program implemented pursuant to subsection (a) above, shall remain in effect for such State or metropolitan government.

(e) The President shall direct immediate implementation of those rationing and conservation measures contained in the plans in this section as needed to achieve the purposes of this Act.

(f) Nothing contained in this Act shall authorize the President to regulate or allocate natural gas not otherwise subject to the jurisdiction of the Federal Power Commission, except for the purpose of prohibiting the burning of gas for decorative purposes and except as provided in section 204(a) of this Act: Provided, however, That State regulatory bodies having jurisdiction over such natural gas shall cooperate with the President to achieve the conservation objectives of this Act.

SEC. 204. FEDERAL ACTION FOR FUEL CONSERVATION. — Notwithstanding any action taken on the part of State or local governments pursuant to the rationing and conservation programs required by section 203:

(a) the President may, in accordance with the rationing and conservation program required by section 203, require, after balancing on a plant-by-plant basis the environmental effects of such conversions against the need to fulfill the purposes of this Act, that any major fossil fuel burning installations, including existing electric generating plants, which now burn petroleum or natural gas and which have the ready capability and necessary plant equipment to burn coal or other fuels, to convert to burning coal or other fuels as their primary energy source. Any installation so converted will be permitted to continue to use such fuel for at least one year, subject to the variance procedure of the Clean Air Act, as amended, (42 U.S.C. 1857 et seq.). Insofar as practicable, conversions shall first be required for those plants where the use of coal or other fuels will have the least adverse environmental impact. Such conversions shall be carried out contingent upon availability of coal, and the maintenance of reliability of service in a given service area. The President shall require that fossil fuel fired electrical powerplants now in the planning process be designed and constructed so as to have the capability of rapid conversion to burn coal.

(b) (1) the Interstate Commerce Commission, with respect to carriers subject to regulation under sections 1(1) and 304(a)(1) of title 49, United States Code (49 U.S.C. 1(1), 304(1)(a)), the Civil Aeronautics Board, and the Federal Maritime Commission, with respect to carriers operating in the domestic trades of the United States including its territories and possessions, for the duration of the energy emergency, in addition to their existing powers, shall have the authority on their own motion or by motion of any interested party, to review and make reasonable and necessary adjustments to the operating authority of carriers within their respective jurisdictions in order to conserve fuel while providing for the public convenience and necessity. Such adjustments may include but need not be limited to adjusting and rationalizing the operations of such carriers with regard to frequency of service, points served, scheduling to prevent duplication of service and reviewing or adjusting rate schedules to reflect such adjustment and rationalization. Actions taken pursuant to this paragraph may be taken, notwithstanding any other provision of law after hearings in accordance with section 553 of title 5 of the United States Code. Any person adversely affected by an action shall be entitled to a judicial review of such action in accordance with chapter 7 of title 5 of the United States Code.

(2) within fifteen days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the energy emergency while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to conserve fuel while providing for the public convenience and necessity.

(3) the regulatory agencies subject to this subsection (b) may, where appropriate, consult with departments or agencies of the Federal Government having expertise or jurisdiction over the modes of transportation involved.

(c) the President shall develop and implement federally sponsored incentives for the use of public transportation, including priority rationing of fuel for mass transit systems, and Federal subsidies for reduced fares and additional expenses incurred because of increased service, for the duration of the energy emergency. For the purposes of this section, paragraph (3) of subsection (e) of section 142 of title 23, United States Code, is amended as follows: strike the period at the end of the paragraph and add the following: "except that, with respect to the purchase of buses and rolling stock for fixed rail, the Federal share shall be 80 per centum."

(d) the President shall solicit recommendations from the Secretary of the Department of Transportation as to changes in Federal and State policies relating to motorized transport on the interstate highway system which would result in significant savings of fuel.

(e) all Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President, within thirty days of enactment of this Act, specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

SEC. 205. AIR QUALITY REQUIREMENTS.—Should a Presidential order to change fuels pursuant to subsection 204(a) result in a violation of an air quality implementation plan, a variance may be granted in accordance with the provisions of the Clean Air Act, as amended.

SEC. 206. ENVIRONMENTAL IMPACT STATEMENTS.—No major action taken under this Act shall, for a period of one year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, prior to taking any such major action that has a significant impact on the environment, if practicable, or in any event within sixty days of taking such action, an environmental evaluation, with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act of 1969, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a thirty-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act of 1969 by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one-year period, or any action to extend an action taken under this Act to a total period of more than one year shall be subject to the full provisions of the National Environmental Policy Act of 1969 notwithstanding any other provision of this Act.

SEC. 207. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.—The President is authorized to initiate the following measures to supplement domestic energy supplies for the duration of the emergency:

(a) Require on a mandatory basis the production of designated existing domestic oilfields at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior, after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields.

(b) Require, if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands, under their respective jurisdiction shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery.

(c) Require the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the priorities established in accordance with section 203.

(d) (1) Require production of oil and gas from the currently developed resources of the naval petroleum reserves whenever the availability of petroleum products to the Armed Forces of the United States necessitates that the Department of Defense be accorded special priority for the purchase of petroleum products from United States suppliers under the terms of the Defense Production Act of 1950. Such production is the equivalent of production for "national defense" as used in section 7422 of title 10, United States Code, as amended, and related sections.

(2) Expedite the full exploration and development of Naval Petroleum Reserves Numbers One, Two, and Three, and expedite the full exploration of Naval Petroleum Reserve Number Four.

(e) Order the acceleration of lease sales of energy resources on public lands, subject to existing law, to include, but not limited to, oil and gas leasing onshore and offshore and geothermal energy leasing: *Provided,* That the exemptions provided for in section 206 shall not be applicable to this subsection 207(e).

SEC. 208. ADVERSE IMPACT ON EMPLOYMENT.—In carrying out his responsibilities under this Act, the President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

TITLE III—ADMINISTRATION AND AUTHORIZATIONS

SEC. 301. CONGRESSIONAL APPROVAL.—Within two weeks after the date of enactment of this Act, the President shall submit to Congress his proposals for the emergency contingency programs provided for in title II of this Act, and proposals for implementing such programs. The Congress may, within fifteen days of such submission, five of which must have been in legislative session, by concurrent resolution specifically disapprove of all or part of the program or proposal.

SEC. 302. (a) LOCAL ADMINISTRATION.—The President may, in the implementation of any nationwide energy emergency rationing and conservation program, utilize a system

of State and local offices as provided in this section.

(b) STATE AGENCIES.—The President is authorized to permit appropriate State agencies to operate the program within each State through local boards or other local agencies, including appeal agencies, as may be necessary to insure that the nationwide program is implemented within each State in a manner responsive to the immediate needs of the locality and consistent with the nationwide energy emergency rationing and conservation program. The State agencies are authorized and may be directed to consult with the elected officials of each locality when appointing the officials of such local agencies.

(c) ADDITIONAL FUNCTIONS.—The legislature of any State may in the development of any program of energy rationing or conservation, authorize the State agency to perform additional functions under State law: *Provided*, That the President may, by regulation, require such additional functions to be approved prior to their being implemented by the State agency.

SEC. 303. ECONOMIC INCENTIVES.—The Secretary of the Treasury and the Director of the Cost of Living Council are hereby authorized and directed to study and recommend to the Congress specific incentives to increase energy supply, reduce demand, and to encourage private industry and individual persons to subscribe to the goals of this Act and to comply with the requirements of programs developed and implemented pursuant to this Act. The study and recommendations required by this section shall include an analysis of the actions required to implement the principle that the producers and users of energy should pay the full long-run incremental cost of obtaining incremental supplies of energy.

SEC. 304. STATE LAWS.—No State law or program in effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any program issued pursuant thereto except insofar as such State law or program is inconsistent with the provisions of this Act.

SEC. 305. FEDERAL FACILITIES.—Whenever practicable, and for purposes of facilitating the transportation and storage of fuel during the effective period of this Act, agencies or departments of the Federal Government are authorized to enter into arrangements for use by domestic public entities and private industries of equipment or facilities which are in idle status or otherwise excess to the short-term needs of such agency: Provided, however, That such arrangements shall be made at fair market prices and only after a finding by the agency of nonavailability of suitable equipment or facilities within private industry in the region of need.

SEC. 306. SANCTIONS.—Any person who

(a) Willfully violates any order or regulation issued pursuant to this Act shall be fined not more than $5,000 for each violation.

(b) Violates any order or regulation issued pursuant to this Act shall be subject to a civil penalty of not more than $2,500 for each day he is in violation of this Act, for each violation.

SEC. 307. LOANS TO HOMEOWNERS AND SMALL BUSINESSES.—The Federal Housing Administration and the Small Business Administration are authorized to make low interest loans to homeowners and small businesses for the purpose of installing new and improved insulation, storm windows, and more efficient heating units.

SEC. 308. NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE.—(a) There is hereby created a National Energy Emergency Advisory Committee which shall advise the President with respect to all aspects of implementation of this Act. The chairman of the committee shall be the Director of the Office of Energy Policy. In addition to the chairman, the committee shall consist of fifteen members appointed by the President, who shall represent the following interests: energy industry, including producers, refiners, transporters, and marketers; transportation; industrial energy users; small business; labor; agriculture; environmental; State and local government; and consumers.

(b) The head of each of the following agencies shall designate a representative who shall serve as an observer at each meeting of the advisory committee and shall assist the committee to perform its advisory functions;

(1) the executive departments as defined in section 101 of title 5, United States Code;

(2) Interstate Commerce Commission;

(3) Atomic Energy Commission;

(4) Federal Power Commission;

(5) Federal Trade Commission;

(6) Civil Aeronautics Board; and the

(7) Federal Maritime Commission.

SEC. 309. ADMINISTRATIVE PROCEDURE.—(a) Except as expressly provided otherwise in this Act, the functions exercised under this Act are excluded from the operation of subchapter 11 of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 553, 555(c), and 702 of title 5, United States Code.

(b) Any agency authorized by the President to issue rules, regulations, or orders under this Act shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or recission of, or an exception to or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this section.

(c) To the maximum extent possible, any agency authorized by the President to take any action under this Act shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on actions or proposed actions, other than procedures to which section 553 of title 5, United States Code would apply according to subsection (a) of this section, taken or to be taken under sections 203, 204, 205, 206, 207, and 312 of this Act.

SEC. 310. JUDICIAL REVIEW.—Judicial review of administrative rulemaking of general and national applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this Act may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases of controversies arising under this Act, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this Act). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this Act, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

SEC. 311. MATERIALS ALLOCATIONS.—To achieve the purposes of this Act, the President is authorized to take such action as may be necessary to allocate supplies of materials associated with production of energy supplies, and equipment to the extent necessary to maintain and increase the production of coal, crude oil and other fuels.

SEC. 312. GRANTS TO STATES.—The President is hereby authorized to make grants to any State or major metropolitan government, in accordance with, but not limited to, section 302 for the purpose of assisting such State or local government in developing, administering, and enforcing emergency fuel shortage contingency plans under this Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973 (Conf. Rept. No. 93-628, Nov. 10, 1973).

SEC. 313. STUDY OF HEALTH EFFECTS OF SULFUR OXIDE EMISSION.—In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal pursuant to section 204 (a) the Department of Health, Education, and Welfare shall, in cooperation with the Environmental Protection Agency, conduct a study of acute and chronic effects among exposed populations. The sum of $5,000,000 is authorized to be appropriated for such a study.

SEC. 314. AUTHORIZATIONS.—There are hereby authorized to be appropriated such funds as are necessary for the purposes of this Act.

SEC. 315. SEPARABILITY.—If any provision of this Act or the applicability thereof is held invalid, the remainder of this Act shall not be affected thereby.

Amend the title so as to read: "A bill to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes."

Mr. MANSFIELD. Mr. President, the purpose of making the bill the pending business is to make it available when the Senate comes in tomorrow and completes the special orders and morning business.

The PRESIDING OFFICER. Under the order of yesterday the committee amendment in the nature of a substitute has been agreed to and the bill as thus amended is to be treated as original text for purpose of further amendment.

ORDER FOR ADJOURNMENT TO 9 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, when the Senate adjourns today, it stand in adjournment until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION—CONFERENCE REPORT

Mr. HRUSKA. Mr. President, I submit a report of the committee of conference on H.R. 7446, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. JOHNSTON). The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 6.

That the House recede from its disagreement to the amendments of the Senate numbered 1 and 4, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 7. (a) (1) There are hereby authorized to be appropriated annually to carry out the provisions of this Act, except for the program of grants-in-aid established by section 9(b) of this Act, not to exceed $10,000,000, of which not to exceed $1,375,000 shall be for grants-in-aid pursuant to section 9 (a) of this Act.

(2) For the purpose of carrying out the program of grants-in-aid established by section 9(b) of this Act, there are hereby authorized to be appropriated such sums, not to exceed $20,000,000, as may be necessary, and any funds appropriated pursuant to this paragraph shall remain available until expended, but no later than December 31, 1976.

And the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SEC. 9. (a) The Administrator is authorized to carry out a program of grants-in-aid in accordance with and in furtherance of the purposes of this Act. The Administrator may, subject to such regulations as he may prescribe—

(1) make equal grants of appropriated funds in each fiscal year of not to exceed $25,000 to Bicentennial Commissions of each State, territory, the District of Columbia, and the Commonwealth of Puerto Rico, upon application therefor;

(2) make grants of nonappropriated funds to nonprofit entities, including States, territories, the District of Columbia, and the Commonwealth of Puerto Rico (or subdivisions thereof), to assist in developing or supporting bicentennial programs or projects, Such grants may be up to 50 per centum of the total cost of the program or project to be assisted.

And the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

(b) For the purpose of further assisting each of the several States, the Territories, the District of Columbia, and the Commonwealth of Puerto Rico in developing and supporting bicentennial programs and projects, the Administrator is authorized, out of funds appropriated pursuant to section 7(a)(2) of this Act, to carry out a program of grants-in-aid in accordance with this subsection. Subject to such regulations as may be prescribed and approved by the Board, the Administrator may make grants to each of the several States, Territories, the District of Columbia, and the Commonwealth of Puerto Rico to assist them in developing and supporting bicentennial programs and projects. Each such recipient shall be entitled to not less than $200,000 under this subsection. In no event shall any such grant be made unless matched by the recipient.

And the Senate agree to the same.

JOHN L. MCCLELLAN,
EDWARD M. KENNEDY,
ROMAN HRUSKA,
Managers on the Part of the Senate.

HAROLD D. DONOHUE,
JAMES R. MANN,
M. CALDWELL BUTLER,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 7446) to establish the American Revolution Bicentennial Administration, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Conferees agreed to the language of Senate Amendment No. 1 amending Section 4 of H.R. 7446. This language is consistent with the basic principle of the legislation in encouraging State and local participation in the Bicentennial observance. The Senate language further implemented this purpose in providing that the Administrator is to coordinate his activities to the extent practicable with those being planned by State, local and private groups. He is further authorized to appoint special committees with members from among those groups to plan such activities as he deems appropriate.

The Senate amended Section 7(a)(1) of the House bill by placing a ceiling of $10,000,000 annually for the expenses of the Administration. Included in that amount was an authorization of not more than $2,475,000 for annual grants of $45,000 to each State, Territory, the District of Columbia and the Commonwealth of Puerto Rico. The provision for the $45,000 grants was contained in a parallel amendment to Section 9 of the bill which authorized the Administrator to make equal grants from appropriated funds of not more than $45,000 to each of the recipients.

The Conferees agreed to reduce the $45,000 figure to $25,000 per entity and the annual authorization for this grant program to $1,375,000.

Section 7(a)(2) as added by the Senate authorized an appropriation of not more than $20,000,000 for grants-in-aid on a matching basis to the several states to assist them in developing and supporting Bicentennial programs and projects as provided in the new Section 9(b) as added by the Senate, the amount to remain available until expended but no later than June 30, 1976.

The Conferees changed this date to December 31, 1976, because of the continuing celebrations and commemorations anticipated throughout the calendar year of 1976.

The language of Section 9(b) as contained in the Conference Report is the revised language agreed to by the Conferees. The Senate language provided that the amounts received under Section 9(b) by any State could not exceed $100,000 per state on a matching basis. In Conference, it was agreed to change this language so that each recipient would be entitled to not less than $200,000 in grants on a matching basis under the Subsection. In addition, the District of Columbia, the Territories and the Commonwealth of Puerto Rico were included as eligible recipients. The Conferees recognized that each jurisdiction would, therefore, be assured of the right to participate in this grant program up to the amount of $200,000. The language of the Subsection makes it clear that these grants are subject to regulations prescribed and approved by the Board. The $200,000 amount is available for grants to each jurisdiction and considered obligated for that purpose, which, if not used, would lapse. It is not intended that the unused portion of the $200,000 minimum earmarked for each jurisdiction will be available for distribution to any other jurisdiction or for any other purpose. The remaining funds under the $20,000,000 authorization are automatically available for grants to any eligible jurisdiction that presents a program found acceptable to the Administration.

The Conferees retained Senate Amendment No. 4. It is merely a conforming amendment made necessary by the renumbering changes in Subsection (a) of Section 9.

The Senate Conferees receded from Senate Amendment No. 6 which would have provided that the Administrator would serve as Chairman of the American Revolution Bicentennial Board and the Vice Chairman shall be elected by members of the Board from members of the Board. The Conferees agreed to retain the original House language providing that the Chairman and Vice Chairman shall be elected by members of the Board from members of the Board other than the Administrator.

The Conferees intend that the regulations provide a reasonable period for applications for grants by eligible entities.

JOHN L. MCCLELLAN,
EDWARD M. KENNEDY,
ROMAN HRUSKA,
Managers on the Part of the Senate.

HAROLD D. DONOHUE,
JAMES R. MANN,
M. CALDWELL BUTLER,
Managers on the Part of the House.

Mr. HRUSKA. Mr. President, I ask that the printing of the conference report and related papers as a Senate report be waived. That requirement will be complied with by the other body.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HRUSKA. Mr. President, this bill originated in the House of Representatives. On October 10 of this year the Senate approved a different version. There were very satisfactory conference meetings between the two bodies, and the result is the report which is at the desk.

At this point, I would like to take the opportunity to make some brief observations regarding the conference report.

The Senate conferees on this bill were

Senator McCLELLAN, Senator KENNEDY, and myself. Along with the House conferees, we worked diligently to resolve those differences which exist between the House and Senate version of H.R. 7446. For my part, I am generally pleased with the outcome of our conference; I believe that the Senate conferees brought back to this body a document which maintains many of the Senate amendments to the House-passed bill. On other matters, the conference report reflects a compromise struck in an atmosphere of differing views. The results of our conference were achieved through the efforts of bipartisan cooperation.

I would like to take a brief moment Mr. President, to comment on some of the most important aspects of the conference report.

The Senate version of H.R. 7446 made special note of the recognition and consideration which the new Bicentennial Administration should give to plans and programs developed by State, local, and private groups. The House conferees agreed to this amendment.

Another of the Senate amendments authorizes not to exceed $10,000,000 annually for the expenses of the new Bicentennial Administration and sets aside $2,475,000 for a continuation of $45,000 annual planning grants to each State. The House agreed to the $10,000,000 annual authorization and the conferees agreed to a reduction of the $45,000 grant to $25,000 annually per State, which comes to a total of $1,375,000 yearly.

The Senate had further amended the House version of H.R. 7446 by authorizing $20,000,000 for a new matching grant program to the States with a ceiling of $400,000 available to each State. The House agreed to the $20,000,000 figure but suggested that the basic approach of the grant program be restructured. The conferees, thus, agreed that under this grant program at least $200,000 would be available to each State or territory on a matching basis. The remaining portion of the $20,000,000 or roughly $9,000,000 would be made available to all such jurisdictions on a competitive basis through regulations establishcd by the American Revolution Bicentennial Board.

Finally, the Senate conferees agreed to recede from the Senate amendment which would have required that the Administrator serve as Chairman of the Board. Thus, the original House language has been restored and provides that these positions shall not be held by the same person.

For my part, Mr. President, I have serious reservations regarding the restoration of the House language on this point. Our previous experiences and the pressing importance of bicentennial efforts seemed to dictate the importance of a streamlined and tightly structured organization. The Senate amendment contemplated that a fusing of these two positions would solve this problem. Nevertheless, the conferees expressed the view that the Administrator under the House provision will be able to operate effectively by virtue of a guarantee that he will have authority over day-to-day operations and be 1 of the 11 Board members.

Mr. President, as I indicated earlier, I am generally satisfied with the conference report on H.R. 7446.

I believe that it is imperative for the Congress to act upon this bill so that authority can be given for the creation of a new Bicentennial organization.

Time is moving quickly, and cannot be recaptured. Much work must be done throughout the country to assure that the celebration of our Nation's 200th anniversary in 1976 is a worthy and memorable occasion.

I recommend the report to my colleagues for their approval, and I yield to the Senator from Arkansas.

Mr. McCLELLAN. Mr. President, I only wish to recommend the approval of the report. The conferees met for about 2 hours yesterday and went over the bill thoroughly, and resolved their major differences in a manner which I think reasonably satisfactory to all parties, and I think the conference report should be adopted.

The PRESIDING OFFICER (Mr. JOHNSTON). The question is on agreeing to the conference report.

The report was agreed to.

Mr. McCLELLAN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. HRUSKA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLELLAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

AUTHORIZATION FOR COMMERCE COMMITTEE TO HAVE UNTIL MIDNIGHT TO FILE REPORT ON DAYLIGHT SAVING BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Commerce Committee have until midnight tonight to file its report on the daylight saving bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADOPTION OF HOUSE CONCURRENT RESOLUTION 378—PROVIDING FOR ADJOURNMENT OF CONGRESS OVER THANKSGIVING HOLIDAY

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair lay before the Senate a message from the House on House Concurrent Resolution 378.

The PRESIDING OFFICER laid before the Senate House Concurrent Resolution 378, which was read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Thursday, November 15, 1973, it stand adjourned until 12 o'clock meridian, Monday, November 26, 1973.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. ROBERT C. BYRD. Mr. President, I offer an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 1, line 4, strike out "1973." and insert: 1973, and that when the Senate adjourns on Wednesday, November 21, 1973, it stand adjourned until 12 o'clock meridian, Monday, November 26, 1973.

The amendment was agreed to.

House Concurrent Resolution 378, as amended, was agreed to.

The title was appropriately amended so as to read:

Concurrent resolution providing for an adjournment of the Congress over Thanksgiving Holiday.

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in adjournment until 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF UNFINISHED BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the conclusion of routine morning business, the Senate resume the consideration of the unfinished business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 a.m. tomorrow. There will be two orders for the recognition of Senators—Mr. GRIFFIN and Mr. ROBERT C. BYRD—in that order, and each for not to exceed 15 minutes. Morning business will follow, for not to exceed 15 minutes, with a 3-minute limitation on statements therein.

The Senate will then resume consideration of S. 2589—to deal with emergency fuel shortages. Amendments thereto will be in order, and yea-and-nay votes will occur during the day.

ADJOURNMENT TO 9 A.M.

Mr. ROBERT C. BYRD. Mr President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to and at 1:02 p.m., the Senate adjourned until tomorrow, Thursday, November 15, 1973, at 9 a.m.

EXTENSIONS OF REMARKS

TIME OF MEMORIES HERE FOR MAMIE

HON. GEORGE A. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. GOODLING. Mr. Speaker, today, November 14, 1973, is the birthdate anniversary of Mamie Doud Eisenhower.

I have the high honor and privilege of claiming Mamie as a constituent for, as all of us know, she resides in historic Gettysburg, Pa.

Birthdays always seem to suggest age, because they are a measure of time. However, in Mamie's case an exception can be claimed, for it can be said that she is, in truth, 77 years young.

She is very active, both around her home and in community affairs. She receives a heavy stream of correspondence from all parts of the world, and much of her time is spent in answering this.

She is also active in club and social work, contributing a great deal of her time to drives designed to accomplish real social services. While she is not eager to accept speaking engagements, she never turns aside any worthwhile causes.

Mamie Doud Eisenhower is a remarkable and charming woman, and I join with the host of people from all over the world in extending her a happy birthday greeting. May the years before her reflect the happy and meaningful years of the past.

An article that appeared in the October 7, 1973, issue of the Sunday Patriot-News of Harrisburg provides some highly interesting background information on Mamie Doud Eisenhower. On this occasion of her birthday, I submit this article to the CONGRESSIONAL RECORD and commend it to the attention of my colleagues:

REMEMBER INTEGRITY, SHE ASKS: TIME OF MEMORIES HERE FOR MAMIE

(By Harry McLaughlin)

GETTYSBURG.—Mamie Doud Eisenhower, who four years and seven months ago was widowed by the death of President Dwight D. Eisenhower, hopes future generations will remember him for his "honesty, integrity and patriotism."

One week from today, world attention again will be focused on the anniversary salute to Ike's 83rd birthday. His friends and neighbors, however, will celebrate it on Thursday, Oct. 18, at Gettysburg College.

In a written reply to questions answered exclusively for the Sunday Patriot-News, Mrs. Eisenhower lists "the freedom to live in her own home—after the White House years" as one of her cherished moments.

Mrs. Eisenhower, who will celebrate her own 77th birthday on Nov. 14, especially noted two cherished moments:

"When Gen. Eisenhower received his first star; and at Columbia University, the satisfaction it gave my husband to deal with young folks."

The former First Lady never has a boring day. Just keeping up with her mail from friends, and answering letters with the assistance of her personal secretary, Mrs. Ethel M. Wetzel, could cover an eight-hour session. She has an office in the Gettysburg Post Office building.

Mrs. Eisenhower "rings for her breakfast at 8:30 a.m." at her farm home near here, although she often awakes an hour earlier.

"Do you like to maintain a busy schedule?" she was asked.

Mrs. Eisenhower, in reply, said that she likes a busy schedule, but does conserve her strength.

Gen. Eisenhower rested at noon after his luncheon, she recalled.

Does Mrs. Eisenhower have special hobbies? She answered in the negative. She does have a kitchen garden and a rose garden but she doesn't work in either one herself.

As for acceptance of invitations to participate in civic or related projects, Gettysburg's first citizen said she gets all kinds of requests, and "will accept anything that is a worthy project."

Mrs. Eisenhower is active in the Gettysburg Chapter of the Daughters of the Revolution. She is honorary chairman of hundreds of organizations throughout the country.

After reading and answering letters (she declines face-to-face personal news media interviews), Mrs. Eisenhower relaxes by playing cards with "old friends", reading or watching television.

One of her husband's closest military friends, Gen. Alfred M. Gruenther, former Supreme Allied Commander in Europe and an Ike bridge partner, will participate in a convocation marking the Eisenhower birthday anniversary at 11 a.m., Thursday, Oct. 18, at Gettysburg College Student Union building. (Gruenther was unable to be present, had the event been held Oct. 14.) The public is invited to the observance.

Friends close to the Eisenhowers remember Ike's standard procedure when touring the nation, or while abroad; he would introduce his wife this way: "Now I want you to meet my Mamie."

The late President and Mamie were extremely fond of their grandchildren, and he expressly enjoyed taking David along on the golf course. David is married to Julie Nixon, daughter of President Nixon, who was Eisenhower's vice-president.

Mrs. Eisenhower recalled that when young the grandchildren loved to put on plays and liked children's movies."

(David Eisenhower, who is presently a law school student, will be the featured speaker at the annual York-Adams County Scholastic Press Assn. conference at York's William Penn Senior High School on Tuesday afternoon, Oct. 16. He formerly attended Gettysburg High School, which is a long-time member of the school press association.)

The former First Lady said she doesn't envision any members of the Eisenhower family becoming actively engaged in politics or government.

David's name has been mentioned from time to time as a possible candidate for the U.S. House of Representative from the 19th District of York, Adams and Cumberland Counties, but he and his wife, Julie, both reject the idea—at least for the moment. They are both registered Adams County Republicans, and last Fall joined his grandmother in voting for her father for president.

"Yes," Mamie Eisenhower told The Sunday Patriot-News, she would urge "young people to enter politics."

Her late husband—Mrs. Eisenhower said assuredly—would be pleased with both the growth of Eisenhower College, in Seneca Falls, N.Y., and the success of the Eisenhower Society scholarship program at Gettysburg College.

The Eisenhower farm daily attracts many tourists, but only a few have ever seen the interior of the home, which is furnished with items the family has had for years.

All gifts from heads of state were sent to the Eisenhower Museum in Abilene, Kans.

The home and farm will become a public shrine—and operated by the National Parks Service of the U.S. Dept. of Interior—after Mrs. Eisenhower's death. She is entitled to continue to live there as long as she wishes to do so.

Mrs. Eisenhower said she will leave some of the furniture in the residence, but will give the remainder to her grandchildren, and son, John Eisenhower, who resides in Phoenixville.

PEACE FOREVER

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. DERWINSKI. Mr. Speaker, in many parts of the country, Veterans Day is still being commemorated on the traditional date of November 11, and this was the case in many communities in the State of Illinois.

A weekly newspaper which serves several communities in my district, the Press Publications, carried an editorial on November 11 that emphasizes the considerations that should be made for the cause of peace. The article follows:

PEACE FOREVER

There are a few strange individuals who profess to believe that by ignoring Veterans Day they are showing their disgust for warfare and killing.

But most of those who participate in such ceremonies know that of all persons, veterans are most in opposition to battle, killing and other acts of aggression.

The prisoners of war in Vietnam are fresh in our memory, and there were several from DuPage county who lived for years under strict Communist supervision. But there are many others who, in prior wars, were taken into custody and held as prisoners of war. Far too many others were killed in battle.

There are many slogans about patriotism such as "peace with honor" and "anything worth having is worth fighting for" and similar catch phrases which may sound pretty but don't have much meaning for a person being shot at.

Veterans Day is a fine time to exhibit patriotism and surely there is a great need for allegiance and support of the democratic principles that all men are created equal and endowed with certain rights which cannot be taken away from him.

This Veterans Day would be a wonderful time for every citizen to pause and take cognizance of two things.

Rights which can be conferred can almost as easily be denied. They can be denied by force of arms or in a court of law, by prejudice, fear or ignorance, by lack of concern or willingness to protect and insure them, and by many other ways.

Also, we should give serious thought not about war itself but the causes of armed conflict, the ideologies which tolerate force to impose a belief or a way of life upon unconcerned or unwilling citizens.

This Nov. 11 in the observance of Veterans Day let us think about what the veterans were fighting for, and vow that we will find peaceful methods of insuring that those goals will be met and maintained . . . peace on earth to all men . . . not just in our time but for all time.

GASOLINE MILEAGE

HON. MARVIN L. ESCH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. ESCH. Mr. Speaker, the question of gasoline mileage in relation to environmental devices placed on new model automobiles has been increasingly discussed in recent weeks. The Department of Transportation reports that consumption of gasoline this year will top 115 billion gallons in the United States, up 6 percent over 1972 and equal to about 900 gallons for each registered motor vehicle. Nonhighway use, including farming, aviation, and recreation accounts for only 3.7 billion gallons.

Certainly all of us want a clean and healthy environment. But surely our goal must be to recognize that while we protect our environment, especially within our major population centers, we must also strive to develop a system that will minimize fuel consumption. For that reason, I call attention of the Members to the recent report issued by the Environmental Protection Agency.

The Environmental Protection Agency placed 1974 automobiles on a dynamometer at the Ann Arbor, Mich., laboratory located in my district and simulated urban driving with a top speed of 57 miles per hour. While not showing some of the mechanical factors which affect gasoline mileage such as automatic transmission, engine, and carburetor size and axle ratio, the preliminary studies did reveal some striking factors which should be called to the attention of my colleagues in Congress.

The most significant factor, I believe, is that the highly publicized Mazda rotary engine in a Toya Kogyo model achieved only 12.8 miles per gallon, which was significantly less than the Ford Comet, 19.9 miles per gallon; the Plymouth compact, 16.7 miles per gallon; the Ford Maverick, 15.6 miles per gallon; the American Motors Sportabout, 15.5 miles per gallon; and the Chevrolet Nova Hatchback, 15.7 miles per gallon.

These results were achieved despite the fact the Mazda vehicle was in the 3,000-pound class compared to the 3,500-pound class of the other cars.

While it may be too early to draw specific conclusions regarding the tests because of the preliminary nature of the analysis, it does point to the fact that size alone is not a determining factor in the consideration. Indeed, the Mazda RX3 wagon, RX3 coupe, and RX2 coupe in the 2,700-pound class was able to achieve a miles-per-gallon rate only comparable to the Ford Montego wagon, even though the latter car weighed almost twice as much.

The preliminary conclusion might well be that those engines that go "hmmmm" might well have a certain detrimental factor—especially for low gas mileage—that needs further attention before it is accepted on a widespread basis.

THE AGNEW CASE: EQUAL JUSTICE?

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. RANGEL. Mr. Speaker, former Vice President Spiro Agnew was forced to resign because of his "nolo contendere" plea to income tax evasion, but his real crime is that he undermined the basic confidence of people in our democratic institutions, which form the bedrock of this country. How can anyone who believes in equally applied justice sleep at night knowing that there are young men who are in jail for stealing a $3,000 car, while Agnew cheated the American Government of over $100,000 and abused the trust placed in him by the American people?

Spiro Agnew will continue to play tennis and golf and live in his $200,000 house while others suffer.

Mr. Vernon E. Jordan, director of the Urban League, addressed this double standard of justice in his weekly syndicated column "To Be Equal" which appeared in the New York Voice on November 2, 1973. I place his column in the RECORD for the attention of my colleagues:

DOUBLE STANDARDS AND DOUBLE TALK

(By Vernon E. Jordan, Jr.)

All the glitter and ceremony of the White House announcement of Gerald Ford's appointment to the Vice Presidency cannot cover the deep shame the Agnew case has brought to Washington, nor can it obscure the serious questions it raises about current political morality and the system of justice in America.

Coming on top of the Watergate scandals and the continuing battle over the secret White House tapes, the Agnew case is a terrible blow to the country's self-confidence and to the average citizen's faith in his leaders.

Black citizens can take no satisfaction from Mr. Agnew's removal from office. Although he was clearly one of the most unpopular national leaders in the view of black communities, there is no joy in a situation in which our national leadership, which should be strong and just, is instead shaken by corruption and greed.

DIVISIVE FORCE

From the time Mr. Agnew justified his refusal to visit and campaign in black neighborhoods by saying "once you've seen one slum you've seen them all," and continuing through his hard law and order stance and his position as a symbol of negativism on a national scale, the former Vice President has been a thorn in the side of people who hoped for policies of reconciliation instead of further divisiveness.

Now, according to a meticulously detailed bill of particulars compiled by the Justice Department, it seems that this champion of law and order was taking bribes not only as Governor of Maryland, but while occupying the second highest office in the land, one breath away from the Presidency itself. In exchange for his resignation, the government decided not to press all of these charges, allowing him to plea bargain his way out of jail by accepting one count of tax evasion, a felony that would put less mortals behind bars.

I can fully understand the government's position that it is better to allow Mr. Agnew to resign in humiliation rather than put the country through the long ordeal of a trial and the resultant verdict and sentencing, but very few black Americans can readily accept the two-tier system of criminal justice this reflects.

High officials ought to be held to higher standards of behavior than the rest of us. Those who would lead must be worthy of that leadership. Opinion generally is that a public official on the take ought to have the book thrown at him rather than get off with a light tap on the wrists. Most people feel that when government office becomes a license to steal then the guilty ought to suffer the full penalties of the law, especially when they've hidden their own corruption behind a screen of charges of "permissiveness" and pleas to get tough with criminals.

ON THE TAKE AND ON THE LOOSE

Why, so many people are asking today, should a high official who has been on the take get off with a lesser sentence than some poor kid who took a joyride in someone else's automobile? How many thousands upon thousands of people are locked up in prison today whose crimes are so much less than those the former Vice President has been charged with?

How many thousands upon thousands of people are today on parole or probation and are forced to inform correction officials of their every movement while the former Vice President was released on his own recognizance? And how many petty criminals are caged up for months just until their trial comes up and what is their reaction to a betrayer of the public's trust getting off without ever seeing the inside of a jailhouse?

Just as the charges against Mr. Agnew corroded faith in the government, his light sentence has corroded faith in the system of criminal justice. I myself don't feel that anything would be served by locking the man up, but then justice is rarely served by locking anyone up, except perhaps for the most retrograde and violent criminals. If anything good at all is to come out of this shameful story, it is for the country to learn to extend the leniency given Mr. Agnew to the faceless thousands of accused persons whose crimes were less than his and whose fate has been far, far worse.

THE COUNTY COURIER: AN UNSELFISH COMMUNITY NEWSPAPER

HON. GOODLOE E. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BYRON. Mr. Speaker, over the past several weeks the media has made us aware of energy conservation guidelines we can all take to save fuel. A community newspaper in my district, however, has done more than just report on the problem—it has gotten involved and is doing something about it by allowing its readers to place free "Ride Wanted" classified ads. A recent editorial said in part:

If through a free ad, you find a ride to work, then the gallons of gas saved will benefit all of us.

Mr. Speaker, the media has been criticized for many things in the past, but here is unselfish example of the good that derives when an active community newspaper works with the citizens and for the citizens it serves. The County Courier deserves our commendation and the thanks of all Americans for doing its small part in conserving our Nation's fuel.

POPULATION CONTROL MEASURES IN COMMUNIST CHINA MORE EXTREME THAN PICTURED?

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HUBER. Mr. Speaker, on September 17 of this year I placed in the CONGRESSIONAL RECORD a story that appeared in the Washington Star-News by Henry Bradsher entitled: "China's Sweet Talk Yields to Tough Antibaby Policy." By way of response some 23 young people in Hong Kong, who state they escaped from Red China, wrote a letter to all the Members of Congress stating that things are even worse than pictured. I have today written to Mr. Bradsher asking him to consider a followup story, based upon the letter from Hong Kong. Therefore, I am calling the statement from these young refugees to the attention of my colleagues. A translation of the letter by the Library of Congress follows:

OCTOBER 15, 1973.

[TRANSLATION]

To: Members of the United States Senate and House of Representatives.

DEAR MEMBERS OF THE CONGRESS: We are a group of young people who were fortunate enough to have escaped from the Chinese Mainland to Hong Kong. As everyone knows, it is not an easy matter to escape from the iron curtain of the Mainland. In order for our group of Chinese refugees to succeed in fleeing the country, it was necessary for us to endure hunger and cold, and to travel on a journey fraught with great hardship; and it was necessary to surmount, at great risk to our lives, one obstacle after another, such as patrol guards, barbed-wire entanglements, fierce police hounds, machineguns, searchlights, patrol boats, and sharks in the open seas. Why did we make such a perilous choice? In a word, we could no longer tolerate living in the Mainland under Mao Tse-tung.

We have recently read a news dispatch in which a reporter of the Washington Star named (Henry) Bradsher, with superb effectiveness, has in the plainest language exposed one of the cruel measures of Mao Tse-tung's design, namely, to issue no food coupons for the third child in any family with more than two children. What has stirred us even more is the fact that the Honorable Representative Huber immediately requested that the entire text of this frightening news article be printed in the Congressional Record. This shows that the Members of the U.S. Congress, with their great concern for the common destiny of mankind, will not close their eyes to the dark and dismal state of the present-day world.

However, we also fervently hope that the correct stand taken by the Members of the Congress will find concrete positive expression, and that the powerful U.S. Congress, with regard to the problem of oppressed escapees, will cause the great American Government to take more positive action. In our thinking, to compare Mao Tse-tung to Hitler is to elevate Mao to too high a level. Hitler brutally carried out the genocide of the Jews; but the class enemies whom Mao Tse-tung would anihilate are countrymen of his own flesh and blood. As for using the excuse of population control to avoid issuing food coupons for the third child of a family, Bradsher's news article only reported the relatively civilized part of the story. From what we know, we can state that Mao Tse-tung is adopting the most atrocious measures of forced sterilization to deal with young parents with more than two children. This kind of method of forced abortion and sterilization, because it is being extensively and indiscriminately promoted, has damaged the lives of an untold number of men and women. But it is only in this way that Mainland food supplies can be saved and diverted to other uses prescribed by Mao Tse-tung.

As a group of displaced refugees, we greatly appreciate the sympathy and care which the beneficient American people have shown us over a long period of time; and at a time when the voice of appeasement to the powers of evil has been spreading among nations, the U.S. Congress has been properly aroused to a vigilant and serious consideration of the matter. This rekindles in us the bright flame of hope for the future. Thus we hasten to send you this message, hoping that it will intensify the interest which Members of the Congress now have in the matter, and that they will institute a deeper investigation into questions such as these. We are unconditionally willing to provide you with concrete source materials, and we believe our protestations will be able to testify to this epochal crime.

(Signed) A group of young people who escaped from Mainland China to Hong Kong:

P'an Ta-hua, Liu Ch'i-chün, Hsiang Hao-jan, Lin Ching-chang, Li Ch'i-ts'-ai, Lu Shih-lin, Li P'u-k'ao, Chiang Ts'ao, Ch'en Chen-tung, Yang Kuo-ch'üan, Kan Ling, Wei Hsiung-kuang, Ch'en Chün-ch'ü, Chi'iu Ch'eng-tsu, Ch'en K'ang-ta, Liang Ching Hua.

Ch'en Fu-p'ei, Ch'en Tien-yüan, Min Chih-chang, Ou-yang Ping-ch'un, Su Kan-feng, Liu Ching-ming, Liu Hsiang-lin.

FUEL FOR THE FUTURE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HAMILTON. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following Washington report:

FUEL FOR THE FUTURE

Recent Arab moves to slow the flow of oil to the U.S. focus attention on the development of alternative sources of energy that could free us from dependence on unreliable sources. Even without the Arab boycott, such development would be in the national interest because, no matter how efficiently the earth's remaining oil and gas deposits are used, the prospect is not encouraging that oil and gas, which now supply 75% of our current energy needs, will meet the anticipated demands of the future.

As a major part of a national energy policy, the federal government should take steps now to assure an adequate supply of energy for the future by developing new energy sources. The nation must make the same kind of commitment to this effort that put a man on the moon. The objective must be to provide the U.S., as soon as feasible, with self sufficiency in environmentally acceptable energy sources.

These are some of the more promising sources:

NUCLEAR POWER

Nuclear power, the best developed new source of energy, is at once the most promising and the most troublesome. At present, 39 nuclear-powered generating plants are in use, 55 are under construction, and 90 others are on order. Nuclear power plants already provide about 1% of the total national demand for energy, and by 1980 they will provide about 7%.

Nuclear power is gradually overcoming a succession of difficulties, including assurance of safe operation, economic feasibility, and environmental acceptability. But other difficulties lie ahead. The expansion of nuclear power may consume all U.S. uranium stocks in about 10 years, forcing the nation to develop a "breeder reactor", which uses a more plentiful form of uranium, but it will also require some technological refinements. A commercial demonstration plant by the mid-1980's is the target. Most scientists think the long-range answer to our energy needs is thermonuclear fusion, a process that could release inexhaustible amounts of clean energy through the combustion of hydrogen atoms to form heavier atoms of helium and without dangerous radioactivity. The technology of controlled fusion power is immensely complex, and scientific, economic and engineering barriers must be overcome.

Nuclear research should receive top priority by the federal government. It has developed at a slower pace than originally planned, and the rate of use should rise sharply in coming years.

SOLAR ENERGY

Long underrated as a source of energy, solar energy is attracting more attention. Utilization of this source is almost nonexistent. Since solar energy is thinly distributed and intermittent, with night and overcast skies often prevailing, its efficient collection and storage present difficult technological problems. Although costs are likely to be high, solar energy is clean, renewable and abundant, and these qualities provide a strong incentive to develop it, especially for heating and cooling buildings, which now consumes more than 20% of our total energy requirements. Present funding for solar energy is minimal and should be increased.

GEOTHERMAL ENERGY

Already geothermal energy is being tapped, accounting for about .1 percent of our present electric power capacity. The heat accumulated for ages in the earth's interior is probably limitless, and it comes as steam, hot water and hot rocks. Very little effort is now going into geothermal energy sources, but it is sufficiently promising that greater efforts are required.

COAL

Coal is the most abundant fossil fuel in the nation and supplies 18% of our total energy use today. The reserves are ample for the foreseeable future, but extracting it from the earth by strip-mining or deep mining can be unsafe and unhealthy, and burning it pollutes the air. Nevertheless, coal is a promising fuel for the future. Converting it to gas (coal gasification) or to liquid (coal liquification) is appealing because of declining natural gas and oil supplies. Pilot plants for coal gasification are in operation and commercial plants are expected by 1985. The government is appropriately stepping up its coal research programs. By 1990, coal could be supplying significant amounts of gas and oil if enough capital is forthcoming, ample water for the manufacturing process is available, and the safety and environmental problems of extracting the coal are solved.

Other sources of energy, like winds, tides and artificially produced hydrogen, may also help supply our energy needs in the future.

Until these alternative sources of energy fulfill their promise, the U.S. must rely on more conventional fuels and confront the problems they entail. The energy shortage today arises because we failed to plan adequately yesterday. Today we must plan to assure sufficient energy for tomorrow, and these far-out and far-off solutions demand attention and development.

HEADSTART FEE SCHEDULE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. STEIGER of Wisconsin. Mr. Speaker, in recent weeks considerable concern has been expressed by individuals throughout the country regarding the fee schedule required for Headstart programs. Questions have also been raised by Members of Congress as well as the Office of Child Development regarding its necessity and effectiveness. Since the Headstart program has always enjoyed bipartisan support and because there is insufficient evidence available at this time to determine the actual impact of the schedule, I, along with Congressmen PERKINS, QUIE, HAWKINS, BELL, and BRADEMAS, have introduced legislation today to defer its implementation until July 1, 1975. In this way I believe that the Congress, working with the administration, can carefully evaluate the entire situation and develop the most effective avenue to follow in resolving the matter. In addition to the legislation, a letter has been sent to Caspar Weinberger, Secretary of the Department of Health, Education, and Welfare, informing him of our actions. I am inserting at this point in the RECORD a copy of the letter so that my colleagues can better understand the problem:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., November 13, 1973.

The Honorable CASPAR W. WEINBERG,
Secretary Department of Health, Education, and Welfare, Washington, D.C.

DEAR MR. SECRETARY: In recent weeks, substantial questions have been raised concerning implementation of the Fee Schedule for the Head Start program. As you are aware, the concept of a fee schedule was originally developed as part of the Child Development bill in 1971, in order to open that legislation to children from all economic backgrounds.

That bill was added to the EOA legislation which was eventually vetoed by the President. After the veto, as the Congress was reconsidering the total bill, the Child Development section was deleted and the fee schedule was made part of the Head Start program.

Preliminary evidence indicates that the fee schedule is forcing the non-poor to drop out because they won't pay the fee. Inclusion of the non-poor in the program is now dependent on the willingness of parents to pay, not on the need of the child. This could destroy continuity for a child who starts the program but is forced to drop out because of family income increases. The focus of Head Start is thereby changed considerably from its original intent. There is an indication that there has also been an increase in administrative problems with the introduction of the fee schedule and it appears that some local Head Start programs are refusing to collect the fees at all. We understand that in other cases it has caused friction between the poor and the near poor and that the costs of collecting the fees are actually greater than the fees being collected. Furthermore, we have been advised that the Office of Management and Budget indicates that there is insufficient statistical evidence at present to determine what impact the imposition of the fees will have on existing Head Start programs and the participation in them.

Although we have not reached any specific conclusions on this matter, it is our feeling that an effective evaluation of this proposal's impact is necessary before a reasoned judgment on the merits of the fee schedule can be made. Today Members of the Education and Labor Committee will introduce legislation postponing the implementation of the Head Start fee schedule until a total evaluation can be made by the Congress, working with the Administration, to determine the actual impact.

Thank you for your serious consideration of this matter.

Sincerely,

CARL D. PERKINS,
JOHN BRADEMAS,
AUGUSTUS F. HAWKINS,
ALBERT H. QUIE,
ALPHONZO BELL,
WILLIAM A. STEIGER.

DEENERGIZED CHRISTMAS PLANNED FOR CONNECTICUT TOWN

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. SARASIN. Mr. Speaker, with the Christmas holiday season almost underway, we expect to see the usual array of glittering shop windows, evergreens laden with twinkling lights, city streets ablaze with neon signs flashing Noel and loud speakers blaring our contorted versions of "Jingle Bells" and "Silent Night" while eager shoppers scurry from store to store in preparation for the festivities.

All of us are familiar with this scene, and none of us wants to eliminate totally the artifacts of the Christmas season, despite our usual complaints about "commercialized Christmas." However, this season may not be quite as enticing as most, particularly as we discover that roasting chestnuts before an open fire is great sport once in awhile, but no way to prepare dinner every night, and that a one horse open sleigh is not the best means of travel on the New Jersey Turnpike, the price of hay being what it is these days.

What Americans termed the "energy challenge" this summer has now become the "energy crisis" and each and every one of us will be affected by it, if we have not already. At this time we need not conjure up visions of a paralyzed Nation, but we do need to look realistically at our energy needs in relation to our current supplies and readily available sources. The President recently outlined his proposals for coping with this situation, and I am hopeful Congress will act as soon as possible in putting much-needed controls into effect.

I would like to offer my praise to the Chamber of Commerce of Naugatuck, Conn., which has already taken steps to curb energy usage in that city, while at the same time encouraging others to follow suit. I would like to share a news release which presents the Christmas decorations policy of the Naugatuck Chamber of Commerce. It reads as follows:

James N. Greene, Jr., Executive Vice President of the Naugatuck Chamber of Commerce, Naugatuck, Connecticut, announced for the Board of Directors and the Retail Division of the Chamber, that because of the mounting, urgent energy crisis that has become severe to the New England area, the Christmas decorations usually displayed in Naugatuck, under the direction of the Naugatuck Chamber of Commerce, will be displayed; however, NOT energized.

Michael Julianelle, Advertising Manager for the Naugatuck Daily News and Chairman of this effort, stated that any Christmas decorations the Naugatuck Chamber of Commerce oversees will be day-time decorations only.

The Chamber Directors and the Retail Division believe that this action is one step in the right direction and in the best interests of all concerned and involved, concluded Julianelle.

I believe this decision warrants the approval and praise of all Americans as this is a demonstration of willingness to cooperate in utilizing our energy supplies most efficiently.

AN EFFICIENT CHARITY

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. VAN DEERLIN. Mr. Speaker, as some of our colleagues know, I am drafting legislation to require financial disclosure by charities and other organizations that use the mails to solicit funds.

I am prompted by evidence that 80 percent or more of the money collected in some charitable drives is siphoned off to pay various "overhead" costs.

Often, these extra expenses include the services of professional fund raisers whose commissions can deplete the proceeds of even the most successful drive.

I believe people should be able to donate to any cause, no matter how dubious or how badly run. But by the same token, prospective contributors should be given some inkling where their money would go, and that is the purpose of the bill I am preparing.

Basically, the legislation would require soliciting agencies to include on their letterhead or other appropriate location a breakdown of how the sums collected were being disbursed. In addition, charities would be required to make available their financial records on request.

There are of course many charities that do not have to be told to level with the public.

One fine example is in my home community—the San Diego Chapter of the Diabetes Association of Southern California.

Costs of the annual fund-raising effort by this group last year came to only 10.2 percent of receipts, and the books are open to anyone who wants to see them.

The secret of success is found in the adroit and extensive use of volunteers, plus a yearly bike-a-thon that is the principle fund-raising device. Bicyclists obtain pledges of support in advance of the ride, and are also responsible for making collections and mailing them to the association's headquarters.

The most recent bike-a-thon was held this past Sunday, over two courses in the San Diego area. Some 1,300 riders participated, and one young sailor from

the guided-missile frigate *Halsey* raised an astonishing $381. All told, proceeds are expected to exceed $20,000, with nine-tenths of that going for actual help to diabetics and their families.

An account of the weekend ride, from Monday's San Diego Union, follows:

DIABETES BIKE-A-THON DRAWS 1,300 CYCLISTS

(By Gina Lubrano)

Guillermo Bejarano pulled off the road yesterday because the passenger strapped to his bike during the Diabetes Bike-A-Thon kept dropping off—to sleep.

His passenger was Guillermo Bejarano Jr., 1½, and when it was time for his nap, he took it. He could see the sights around Mission Bay when he wasn't so sleepy.

Bejarano, and another son, Steven, 8, waited a half hour for the toddler to drink his bottle and sleep before continuing on the 20-mile route.

The Bejaranos, of 4077 Marlborough Way in East San Diego, rode in the bike-a-thon because Steven is a diabetic, Bejarano said. The $50 they will collect from sponsors for the ride will go for research being conducted in San Diego by the Diabetes Association of Southern California, a spokesman said.

TWO SEPARATE ROUTES

About 1,300 persons participated in the ride over two routes, a spokesman said. The 20-mile Mission Bay route took riders from Point Loma to Mission Bay Drive. The 17-mile El Cajon University route took riders from El Cajon Boulevard to La Mesa.

Jeff Campbell of Pacific Beach and Joanne Leirich of La Mesa rode tandem for the bike-a thon. "This is a two-horsepower bike," Campbell joked.

"How much further do we have to go?" asked Janiece Hill, 10, of 2403 E. Ingersott St. Linda Vista. She groaned when she heard the answer, but said she was riding in the bike-a-thon " 'cause I want to."

Some of the riders went over the route more than once. One man spun his way along the El Cajon Boulevard route at least four times, a spokesman said.

AVERAGED $19 EACH

Each participant had obtained a sponsor or a number of sponsors prior to the ride. The Campbell-Leirich team had arranged to collect 50 cents a mile for their efforts.

Janiece said her sponsors were going to give her 35 cents a mile.

The first bike-a-thon for the Diabetes Association of Southern California was last year. The average earning of each rider during the first one was $19, a spokesman said.

Yesterday, Steven Bejarano attached a green flag to his bike that had been provided by the Diabetes Association.

A BILL TO PROVIDE FOR THE LICENSING BY THE DISTRICT OF COLUMBIA OF THE BUSINESS OF SELLING, ISSUING, OR DELIVERING CHECKS, DRAFTS, AND MONEY ORDERS AS A SERVICE OR FOR A FEE OR OTHER CONSIDERATIONS IN THE DISTRICT OF COLUMBIA, AND FOR OTHER PURPOSES

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, I introduced a bill today which will provide consumer protection to those persons who purchase private checks or money orders in the District of Columbia. There is a very special need for this legislation in that the District of Columbia has no law whatsoever in this area. This has manifested itself by the many fly-by-night private check and money order companies now operating here. These same companies operate only in States and the District of Columbia where no law exists for licensing or bonding, accumulating a fast-growing clientele holding worthless checks and money orders which have bounced as the result of fraudulent operations or financial insolvency. Particularly hard hit are those people who use the private check or money order business as a primary means to pay household bills, and can least afford to find their payments due still outstanding when the check or money order bounces and their money gone. These people deserve the protection and security derived from a workable, fair, and inexpensive bonding and licensing arrangement.

Mr. Speaker, this bill will establish the requirement that any person issuing checks or money orders in the District of Columbia, post a bond of $50,000, with an additional principal sum of $5,000 for each location in excess of one. Licensing of each applicant under this bill will be made in writing and under oath to the Superintendent of Insurance of the District of Columbia in such form as he may prescribe. Upon filing of an application, the Superintendent shall ascertain whether the applicant satisfies the necessary qualifications prescribed by this bill, and if so found qualified, the Superintendent will issue to the applicant a license to engage in the business of selling checks and money orders in the District of Columbia. The Superintendent may invoke a license on any ground on which he may refuse to grant a license or for violation of any provision contained in this bill.

Mr. Speaker, the crucial factor here is to assure the value of a check or money order once the consumer has put up his hard-earned cash for it. To this end, the bill I have introduced today would provide a new measure of security and a long overdue protection of the financial resources of users of the private check and money order system. I believe this is an important bill and urge enactment at the earliest possible date.

A MIRACLE OF A RESCUE

HON. JOSEPH E. KARTH

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. KARTH. Mr. Speaker. In this day of seemingly continual crisis it is a good idea to pause and reflect upon some of the good things about our country. This pause was suggested by a story I read recently of a young woman's great personal courage in saving a young man's life. While she did not think anything of it because it was simply a part of her job as a lifeguard, it is significant to note that the person saved was some five inches taller and 75 pounds heavier than the rescuer. With these thoughts in mind and with the hope that in a small measure we can honor her by this public recognition I place on the RECORD a story from the White Bear Advisor concerning "a miracle" brought about by Miss Karen Korfhage:

"A MIRACLE," MOTHER SAYS OF RESCUE

Mrs. Raymond Shields calls it a miracle. Karen Korfhage, 20, thinks of it as the most important part of her job.

Karen is credited with saving the life of Ken Shields, 16, of 130–6th St.

In spite of the fact that Kenneth outweighs her by 75 pounds and is five inches taller, the 110-pound Ramsey county beach lifeguard lifted him off the bottom of the lake. She and fellow lifeguards restored the boy's breathing in 45 seconds.

Ken was hospitalized for two days, but his mother said he was fit this week. The near-drowning took place several weeks ago.

Kenneth and a friend, John Kurkowski, Vadnais Heights, went to the beach one afternoon. Kenneth was dressed in jeans and had no intention of going into the water. But the lake looked inviting and he waded out. He was warned by Karen not to go in because beach regulations prohibit swimming without a swimming suit.

Ken, whose mother said he was "not a good swimmer," was nearly to the diving deck when he was told to go back to shore. As he started back, his jeans filled with water and dragged him down. Kurkowski came to his aid, attempting to hold him up but lost his grip and Ken slipped below the surface. John yelled for help. Karen made an attempt to find him, but could not. Then, according to Mrs. Shields, the "miracle happened when the sun came out." The clouds parted and the sun came out and this allowed Karen to see Ken. On her second attempt she was able to see Kenneth on the bottom.

She pulled him to the surface. Another lifeguard, Dave Reif, helped her get him to the deck where Reif administered mouth-to-mouth resusitation. Karen massaged his heart. Two Ramsey county sheriff's deputies arrived and rushed Ken to St. Paul-Ramsey hospital. He was in intensive care for two days.

Karen said she was not afraid until she saw how big Ken was when he was out of the water. She is a pre-medical student at the University of Minnesota and hopes to be a doctor. She was a lifeguard at Memorial Beach for two years before transferring to Ramsey county beach this year.

She is the daughter of Mr. and Mrs. M. C. (Bud) Korfhage.

Mrs. Shields said last week that she thinks it was a miracle, but she was grateful to everyone who helped save her boy's life. She included his friend, the lifeguards and the sheriff's deputies.

She warned against wearing jeans for swimming and recommended the buddy system for all swimmers.

LATVIAN INDEPENDENCE DAY

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. ADDABBO. Mr. Speaker, on November 18, the Latvian people, including Americans of Latvian origin, observe the 55th Anniversary of the Declaration of Independence. The importance of this occasion is that the hope of freedom of the people of Latvia remain strong despite years of oppression.

Latvia is truly a captive nation and the people of Latvia are dedicated to the restoration of the liberty that is rightfully theirs under any interpretation of basic international human rights. The victory of Stalin burns in their minds as a clear act of aggression, which will one day be avenged. The American people can understand that kind of hope and we must support and rekindle the hope for freedom wherever it exists under the yoke of tyranny.

In this era of détente, the United States must not forget the people of Latvia and the other captive nations. We will remember them, I am confident, because it is the right thing to do. The expression of concern by Members of the House on this issue is evident as we join in this observance of the 55th anniversary of the declaration of independence of Latvia.

CFR: NEW MEMBERSHIP 1973

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. RARICK. Mr. Speaker, the Council on Foreign Relations has voluntarily supplied me with its Annual Report for 1972–73.

The 141 men and women who became members of the council during the period of the report are as follows:

David M. Abshire, George H. Aldrich, Joe J. Allbritton, John B. Anderson, Les Aspin, *M. Genevieve Atwood, Josiah Lee Auspitz, Perry O. Barber, Jr., David O. Beim, Lloyd M. Bentsen, Jr.

Bernard R. Berelson, Marilyn Berger, Suzanne Berger, Eugene A. Birnbaum, *Andrew H. Blauvelt, Frederick M. Bohen, John Brademas, Lewis M. Branscomb, Alfred Brittain III, Edward W. Brooke.

José A. Cabranes, Joseph A. Califano, Jr., John Carey, Charles W. Carson, Jr., Frank T. Cary, William J. Casey, Henry E. Catto, Jr., John Chancellor, George A. Chandler, Robert G. Chollar.

Warren Christopher, Ray S. Cline, Barber B. Conable, Jr., Joseph F. Condon, John T. Connor, Jr., John C. Culver, William M. Dietel, Stephen H. DuBrul, Jr., Freeman J. Dyson, *Jessica P. Einhorn.

*Robert J. Einhorn, Donald H. Elliott, Dante B. Fascell, Clarence Clyde Ferguson, Jr., Frances FitzGerald, Murray H. Finley, Donald T. Fox, Donald M. Fraser, Alton Frye, Paul M. Fye.

Leslie H. Gelb, *Patrick A. Gerschel, Henry R. Geyelin, Philip L. Geyelin, Eli Goldston, Alexander M. Haig, Jr., *David R. Halperin, Robert L. Heilbroner, Richard M. Helms, *John A. Herfort.

Frank W. Hoch, Jerome H. Holland, Graham Hovey, John Hughes, Fred C. Iklé, Norman Jacobs, *Robbin S. Johnson, W. Thomas Johnson, Jr., Willard R. Johnson, Marvin L. Kalb.

Alfred Orr Kelly, *William J. Kilberg, Lane Kirkland, Curtis M. Klaerner, John H. Knowles, Edward A. Kolodziej, Lawrence B. Krause, Kermit I. Lansner, Ivo J. Lederer, Monroe Leigh.

*Hillel Levine, Charles Edwin Lord, Winston Lord, James T. Lynn, Laurence E. Lynn, Jr., Harry C. McPherson, Jr., William B. Macomber, Jr., Walter F. Mondale, Richard M. Moose, Thomas E. Morgan.

Edward L. Morse, *Kenneth P. Morse, Edmund S. Muskie, Andre W. G. Newburg, John Newhouse, Matthew Nimetz, Michel Oksenberg, James J. O'Leary, *Kathryn C. Pelgrift, Lionel I. Pincus.

Walter H. Pincus, Myer Rashish, Donald T. Regan, Nicholas Rey, John B. Rhinelander, John B. Rhodes, Jr., Emmett Rice, Richard W. Richardson.

Chalmers M. Roberts, Charles W. Robinson, James D. Robinson III, David E. Rogers, Frederick P. Rose, William V. Roth, Jr., Nadav Safran, John A. Scali, *Jan Schneider, Robert C. Seamans, Jr., Eli Shapiro.

Herbert M. Shayne, Eleanor Bernert Sheldon, George L. Sherry, Leonard S. Silk, Ann B. Sloane, Walter B. Slocombe, Gaddis Smith, Louis B. Sohn, Robert Solomon, Charles R. Stevens, Seth P. Tillman.

Russell E. Train, H. Anton Tucher, Edward Hallam Tuck, Stansfield Turner, Charles H. Weaver, Nils Y. Wessell, Marina von Neumann Whitman, Leonard Woodcock, Jerry Wurf, *Daniel Yergin, *Stephen B. Young.

As of August 31, 1973, the Council had 1,551 members, an increase of 75 over the number as of August 31, 1972. Of these members, 662 are resident members, 357 are in the Boston and Washington areas, and 532 are in other parts of the United States and overseas.

The professional distribution of the present membership is:

Profession	*Number of Members*
Scholars or academic administrators	373
Business executives	468
U.S. Government officials	195
Lawyers	127
Journalists, correspondents and communications executives	135
Administrators of non-profit institutions	187
Other	66

*Indicates Term Member.

GOVERNMENT CONTROLS BRING SHORTAGES

HON. ROBERT J. HUBER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HUBER. Mr. Speaker, Industry Week succinctly portrays a principal reason for the current rash of shortages in our Nation—shortages which range from fertilizer to metals and paper—as the overabundance of Government controls.

I recommend for the attention of my colleagues Mr. Walter J. Campbell's short editorial of October 22 reprinted below:

TIGHTEN YOUR BELTS

We were more than a little surprised after four months in retirement to receive three telephone calls this week from friends in the metalworking business asking where they could obtain steel.

We didn't know. We figured the situation must be rather desperate when these steel-hungry manufacturers turned to us for information. All we could say was that the mills we knew were sold out for the year and that their order books had been closed for some weeks. That, of course, was neither news nor help.

Scarcities and shortages have become a way of life in this country.

We not only are short of steel, but we are also short of aluminum and copper. Paper is scarce. Plastics are in short supply. Brick, lumber, roofing, plumbing supplies, and other building materials often are unavailable, and builders and their home-building customers wait and wait and wait—and then pay through the nose.

Farmers have been advised that fertilizers will be in short supply next season—and that probably will aggravate the food shortages.

We have shortages in practically everything—except government controls.

Controls are a prime cause of the shortages and the lack of capacity expansion from which the shortages spring. That should surprise no one.

Price controls over the past several years have held profit margins down.

Meanwhile, the cost of expanding has shot upwards.

The cost of borrowing money rose to a point where manufacturers would be silly to finance new capacity on borrowed funds.

The securities market got sick and made the raising of new capital through new stock issues unfeasible.

So, we have failed to expand capacity to meet today's needs.

And, on top of that, a substantial number of production facilities have been abandoned, or will be abandoned, because they cannot be brought up to environmental standards economically.

Shortages inevitably raise prices—controls or no controls.

We have shortages of capacity.

We have shortages of materials.

We will continue to live with shortages until the control-minded bureaucrats take their cotton-pickin' fingers off the economic mechanism and permit market forces to regulate the supply and demand of goods.

PROGRESSIVE MAGAZINE CALLS FOR IMPEACHMENT OF THE PRESIDENT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. KASTENMEIER. Mr. Speaker, in its forthcoming December 1973 issue, the prestigious journal, the Progressive, whose offices are located in my congressional district, will present a 10-article bill of impeachment calling for the removal of the President.

The impeachment question is now before the House Judiciary Committee, and the Progressive is to be congratulated for reminding us of our obligation to move promptly to resolve this matter. I commend to all House Members and, in particular, to my colleagues on the Judiciary Committee, the editorial, "A Call to Action," by the Progressive editors:

A CALL TO ACTION

(By the Editors of the Progressive)

Crisis. The word has been overworked by all of us, and particularly by those engaged in reporting, analyzing, and interpreting the news. We have been recording monthly, weekly, daily crises for longer than we care to remember—foreign and domestic crises, military and political crises, economic, moral, and cultural crises. A headlined crisis no longer generates alarm, or even profound concern. Ho hum, another crisis. . . .

But the crisis that grips America today is of another, higher magnitude—one that deserves, perhaps, a new term that has not been eroded by abuse. It swirls, of course, around the person of the President of the United States, but it impinges on every facet of the national life and character. We are confronted, suddenly and dramatically, with fundamental questions about our national community—questions that demand swift and decisive answers.

Are we prepared, after almost 200 years, to abandon our experiment—intermittently successful but always hopeful—in enlightened self-government? Will we permit our highest and most powerful office—an office

whose occupant can literally decide the future and even the survival of the nation and the world—to remain in the hands of a man who has, in the words of the American Civil Liberties Union, "made one thing perfectly clear: He will function above the law whenever he can get away with it"? Will we refrain, because of our timidity or sheer inertia, from availing ourselves of the remedies provided by the Constitution of the United States for precisely such an emergency?

Three years remain in Richard M. Nixon's second Presidential term—time enough for him to compound and render irreversible the catastrophic damage he has already done. It is understandable that the President may feel that if he can survive in office for those three years, he will have achieved a measure of vindication. But his vindication will be our indictment and conviction. If we, the American people, knowing what we now know about this President and his Administration, permit him to serve out his term, we will stand condemned in history for the grave offense of murdering the American dream.

These pages go to press amidst a chrous of demands for Mr. Nixon's resignation. The demands emanate not only from Mr. Nixon's long-standing critics—his "enemies," as he would doubtless style them—but from many who were, until recently, among his most enthusiastic supporters. The editors of *Time*, in the first editorial of the magazine's fifty-year history—at least the first so labeled—called on him to "give up the Presidency rather than do further damage to the country." The same suggestion has been advanced by newspapers which, only a little more than a year ago, were unreservedly advocating his re-election and which, only months ago, were minimizing the gravity of the Watergate disclosures; by Republican politicians who fear, not without justification, that the President is now an intolerable burden to their party; by businessmen who no longer can vest their confidence in Mr. Nixon as the chosen instrument of corporate prosperity.

Mr. Nixon would derive some obvious benefits if he were to heed this advice and relinquish his office. Unlike his recently departed Vice President, Spiro T. Agnew, he would not have to couple his resignation with a guilty plea to any crime. Like Mr. Agnew, he could continue to proclaim his innocence—and to denounce his "enemies"—in perpetuity. He has always relished the role of victim, and he could carry it to oblivion.

At the same time, the Congress would be spared from exercising a responsibility which it clearly does not welcome—the responsibility of impeaching the President of the United States. And the American people, the people who only a year ago gave the President an unprecedented mandate and whose disenchantment has now reached unprecedented depths, could breathe a deep sigh and go about the business of restoring a measure of order and hope to their national affairs.

But the decision to resign is, ultimately, the President's alone to make, and the word from the White House at this writing is that he will not be moved (or removed). He has "no intention whatever of walking away from the job I was elected to do," he told the nation on November 7.

It is our judgment, and we believe it is the American people's judgment, that the job he has done is enough.

Until and unless the President changes his mind about resigning, the decision to resolve the crisis that grips the nation will be ours to make—for only by exerting immense and unremitting pressure can we convince the Congress that it must discharge its constitutional responsibility. Public opinion, has already persuaded some legislators to abandon their customary vacillating stance. Public opinion, forcefully applied, can move the requisite number of Representatives to embark on the process of impeachment.

The first order of business confronting Congress is to fill the vacancy in the Vice Presidency. Mr. Nixon's designee, Representative Gerald R. Ford of Michigan, would hardly be our first (or thousandth) choice; he is, in our view, unsuited intellectually and politically to hold the nation's highest office. But given the choice—and it is the choice we are given—between mediocrity (Mr. Ford) and moral disgrace (Mr. Nixon), we have no difficulty choosing the former. America has muddled through with mediocre leadership before, but it cannot go on much longer with leadership that is morally bankrupt.

Once a Vice President has been installed, the "engine of impeachment"—James Madison's term—can be set in motion. It is an engine that the leaders of the House and Senate clearly would prefer not to start, but it can be ignited by any member of the House of Representatives who chooses to take the floor and declare: "Mr. Speaker, I rise to a question of constitutional privilege. . . . I impeach Richard M. Nixon, President of the United States, for high crimes and misdemeanors." Citing only the facts that have already come to light, that have for the most part been verified, this member of the House can invite his colleagues to do their constitutional duty by considering the charges against the President.

LATVIAN INDEPENDENCE DAY

HON. LAWRENCE J. HOGAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HOGAN. Mr. Speaker, November 18 marks the 55th anniversary of Latvia's declaration of independence. The rights and joys of a free society in Latvia were brief, since in 1940, 22 years after the Latvian's fought to free their land from invading countries, Latvia fell to the Russian army. Latvia has been a captive nation since 1940 and its people have been deprived of their individual and collective rights and freedoms while under Soviet domination. As a supporter of freedom for the Baltic people and all other captive nations, I would like to ask that Congress take time to remember these people in their fight for freedom and human rights. The fate of these captive nations should not be forgotten because their future outlines the future of Europe and the world balance for years to come.

I am including a letter by Dr. Ilgvars Spilners, president of the American Latvian Association in the United States, Inc. which merits the attention of all Members:

LATVIAN INDEPENDENCE DAY

Latvia was established as an independent nation on November 18, 1918. It took almost two more years for the newly created Latvian Army to defeat the invading Russian and German troops and liberate the whole country. The hostilities ended with a Peace Treaty of 1920 between Latvia and Russia. With this treaty, Russia unreservedly recognized the independence, self-subsistency, and sovereignty of the Latvian State and voluntarily and forever renounced all sovereign rights over the Latvian people and territory, which formerly belonged to Russia. Republic of Latvia was recognized as a sovereign State by all major countries, and was a member of the League of Nations.

The end of Latvian independence came on June 17, 1940, when the Russian Red Army invaded the country and started annexation of Latvia to the Soviet Union.

Numerous world political and intellectual leaders have publically declared their support for Latvian, as well as Lithuanian and Estonian freedom, self-determination, and human rights. They admit, however, that Russians, governed by the present dictatorship, and practicing an expansionist policy, are not going to leave Latvia, or the other two Baltic States, voluntarily, and are militarily too powerful to be forced to leave. If there is to be more than just talk, the Baltic question should be raised in the broader context of equal rights and self-determination of people and the respect for human rights as fundamental freedom before the respective committees of the Conference on Security and Cooperation in Europe, now meeting in Geneva. This Baltic question should be discussed even if the Russians object. Hopefully, these discussions would be educational and would eventually change the Russian attitude toward the Baltic States.

OUR NATION SALUTES THE STEUBEN SOCIETY OF AMERICA, JOHANN VON KALB, NO. 46 OF HALEDON, N.J., ON ITS 50TH ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. ROE. Mr. Speaker, on Saturday, October 13, 1973, it was my privilege and honor to join with members of my congressional district and State of New Jersey in celebrating the 50th golden anniversary of Johann Von Kalb Unit No. 46, the Steuben Society of America. The outstanding contributions of those of our citizens of German-American heritage in the fields of scientific innovation and cultural enrichment to our society were eloqeuntly presented by the following members of the Steuben Society of America with whom I was honored to share the dais:

Edward J. Sussmann, national chairman of the Steuben Society of America; Frank J. Krutzky, chairman, Johann Von Kalb Unit; George Hartleb, chairman of the New Jersey State Council; Frieda Scheidewig, banquet chairman, and Dick Ahlers, master of ceremonies.

The eloquence of the presentation by national chairman Edward J. Sussman most poignantly reminded all of those assembled of the extraordinary contribution to the fight for freedom in establishing our democracy of Gen. Friedrich Wilhelm von Steuben. As you and our colleagues here in the House know, the Steuben Society of America was organized in honor of this great American Revolutionary War hero of German ancestry. In promulgating and preserving the richness of the cultures of our German heritage, this distinguished organization has matured in the vanguard of our historic preservation societies in the communion of America's citizenry who cherish the freedom and independence on which our Nation was founded.

In celebrating this golden jubilee, the dedication and devotion of the patron statesman, Gen. Johann Von Kalb, whose service to our country in the Continental Army under Gen. George Washington in the early years of America's struggle for independence had inspired the founding a half-century ago of the Johann Von Kalb Unit No. 46, was indeed mirrored in the spirit of those in attendance. The program that evening manifested a quality of life here in America that has prospered because of the freedom and justice that has been available to all who came to the shores of our great country seeking a better world for themselves and their children with the pride that all Americans have of their heritage.

Mr. Speaker, I respectfully ask that you and our colleagues here in the Congress join with me now in extending our heartiest congratulations and best wishes to the members of the Steuben Society of America, Johann Von Kalb Unit No. 46, in commemorating this historic 50th anniversary with special commendation to the outstanding public service being rendered by its officers. The 1973 officers of the Johann Von Kalb Unit No. 46 are as follows:

Frank J. Krutzky, chairman; Kurt Heller, first vice chairman; Frieda Scheidewig, second vice chairman; Frank Reuter, third vice chairman; Ida Connolly, secretary; George Stromsdorfer, financial secretary; Fred Mayer, treasurer; Otto Ernst, first trustee; Gertrude Mayer, second trustee; Ida Connolly, delegate to State council, and Frieda Scheidewig, alternate delegate.

Mr. Speaker, the interest and involvement of our people is a most important integral part of our governmental process. Throughout the years the Steuben Society of America has addressed the Congress on the many issues confronting our Nation, which has proven to be a healthy exchange of views in the form of public opinion that is important to the promulgation of legislative proposals and action programs essential to meet the needs of our people.

To understand the present, we must understand the past. To meet the challenges of the future, we must ever maintain the communication arteries so important to the people's decisionmaking agencies of our Government. On the 50th anniversary observance of the Johann Von Kalb Unit No. 46, I believe it would be most appropriate to review, and I insert at this point in our historic journal of Congress, the aims and purposes upon which the Steuben Society of America was founded. Their official statement of purpose is as follows:

AIMS AND PURPOSES OF THE STEUBEN SOCIETY OF AMERICA

Loyally to support the Constitution of the United States of America by advocating the proper application of its provisions and inculcating the principles underlying true democratic government;

To quicken the spirit of sound Americanism; and to foster a patriotic American spirit among all citizens;

To aid in maintaining the independence and sovereignty of the United States of America and its freedom from all foreign influence;

To establish co-operation among its members in the exercise of their civic duties and to encourage them in active participation in every phase of our national life;

To promote the welfare and enhance the happiness of its members and their fellowmen;

To perpetuate itself as a patriotic and fraternal voluntary membership organization and to provide for its government;

To guard our political liberty by maintaining an honest equality of citizenship regardless of birth, origin or religion of any citizen;

To maintain the traditions of our country.

Mr. Speaker, our Nation has been nourished and secured by the cultural standards of excellence that all nationalities have contributed to the quality of our way of life here in America and we can indeed share the great pride of all of our citizens in the outstanding achievements and contributions that the people of German heritage have made to America's preeminence among all nations of the world. I know you will want to join with me today in saluting the Steuben Society of America, Johann Von Kalb No. 46 as it celebrates its golden anniversary of untiring dedication and devotion to the cause of freedom, justice and a good life for all in helping to preserve the endowment and traditions of our German heritage which have truly enriched our community, State, and Nation.

VETERANS' PENSIONS

HON. HAROLD V. FROEHLICH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. FROEHLICH. Mr. Speaker, a sequence of events evolved this afternoon which is nothing short of mind-boggling. I am shocked, amazed, and annoyed by what I consider to be, at best, a prostitution of the legislative process and, at worst, a deliberate attempt to exclude legitimate discussion and debate from passage of veterans' pension legislation.

On July 30, 1973, the House of Representatives passed legislation increasing veterans' pensions. This bill, H.R. 9474, did not contain an increase in the limitation on the income a veteran can earn without losing his pension. This provision I considered vital to any pension increase bill and I had introduced a bill to accomplish this purpose in the House as one of my first bills of my first Congress. I was very pleased, therefore, when the Senate, in veterans' pension increase legislation passed by that body in August, included a $400 increase in the income limitation. While $200 short of the amount in my bill, it was a more preferable alternative than the House-passed version, and I was hopeful that sufficient support could be mustered for this provision to retain it in the bill as it would eventually be sent to the President.

Since both Houses of Congress had passed different forms of the bill, I waited patiently for the bill to be sent to conference, at which time it was my intention to urge the conferees to retain the $400 income limitation increase in the final bill. I was told, however, on a number of occasions, that the staffs of the House and Senate committees were trying to iron out the differences in the two bills themselves, thus eliminating the need for a time-consuming conference. I began to question which procedure was more time-consuming as the summer became fall and it appeared that we were in the last few months of the session, but still no announcement came.

As of this morning, the schedule for the House floor today was House Resolution 128, dealing with Members convicted of certain crimes and H.R. 11333, Social Security Act amendments. When the House went into session, I had not been notified in any way that the schedule had been changed. Shortly after 12, I left the House floor to meet with a group of constituents. When I returned, in less than an hour, veterans legislation on which a compromise had suddenly been reached, had been called up, discussed, and passed by voice vote. A bill that had lain dormant for 15 weeks had taken less than 15 minutes to clear the House. There were many questioning looks on the floor and my questions as to what the bill contained could not be answered by many of the people I approached. After much searching I found that the bill did not contain an increase in the income limitation, a fact which deeply disturbs me.

I am more deeply disturbed, however, by the procedure or, rather, the lack thereof, by which the bill was considered. If they can in any way be construed to typify the legislative process, then perhaps the prophets of doom who decry our system and our institutions are closer to the truth then any of us should ever want to believe.

THE A–7D AIRPLANE

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. MILFORD. Mr. Speaker, I have flown the A–7D airplane and know it is a proud and capable ship. The fighter craft is built in my district, and those people are proud of its ability. But today I received an article written by the men who have flown combat missions in the LTV plane, and would like to share their opinions with my colleagues.

The article follows:

THE A–7D IN SEA

Gentlemen: We were extremely proud to read Mr. John L. Frisbee's article, "How the A–7D Rewrote the Book in SEA," in your August '73 issue of Air Force Magazine. All of us, presently deployed, believe your account to be tremendously accurate and an excellent depiction of our operations over here, at Korat. It is most rewarding to read journalistic work of such high quality, especially when it concerns the Air Force A–7D.

Although the A–7D was only in combat for ten months, the unparalleled accuracy and versatility demonstrated in high, medium, and low threat environments have given tactical airpower a greatly expanded capability. As of 15 August 1973, the Hummer has flown over 10,000 combat sorties in SEA. AF A–7Ds flew from Hanoi and Thai Nguyen in North Vietnam to the Mekong Delta in the South and from Kampot on the Cambodia coast to the Plain of Jars in Laos. No other aircraft has proven itself capable of such tactical flexibility in such a short time frame.

There is one more chapter we desire to add to the short history of SLUF. That chapter deals with the deep satisfaction we sustained when it was learned the A–7D was the last combat strike sortie to depart the Cambodian airspace on 15 August 1973. "Slam" flight, composed of aircraft 70–930 and 70–345, piloted by Maj. John H. Hoskins and Capt. Lonnie O. Ratley, III, will go down in our unit history as marking the end of our involvement in America's longest war.

The Tactical Air Command personnel supporting the 354th TFW deployed are unanimous in their hope that our participation has aided in creating an atmosphere conducive to peace and stability in the decades to come. We stand ready to react any time, anywhere, to threats against the peace and security of the free world.

The Officers, NCOs, and Airmen of the 354th Tactical Fighter Wing; 355th Tactical Fighter Wing; 23d Tactical Fighter Wing; and 3d Tactical Fighter Squadron, 388th Tactical Fighter Wing APO San Francisco.

EDUCATIONAL GRANTS FROM FOREIGN SOURCES

HON. BILL GUNTER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. GUNTER. Mr. Speaker, recently I noticed several newspaper stories announcing grants from foreign sources to our Nation's leading educational institutions. I call these articles to my colleagues' attention and invite them to join me in inquiring as to what other foreign funds have been given to our colleges and universities and not reported.

I believe that this question must be answered and I will attempt to provide such an answer in the days ahead.

The articles follow:

[From the New York Times, June 21, 1973]

JAPAN'S SUMITOMO GROUP GIVES $2 MILLION TO YALE

(By Iver Peterson)

Japan's giant Sumitomo Group of banking, mining and manufacturing interests has given $2-million to Yale University and $1,-million to the Japan Society here to promote Japanese-American cultural understanding.

The gifts from the Japanese conglomerate follow the gift of $1-million to the Harvard University Law School from Mitsubishi Heavy Industries, one of the Sumitomo Group's rivals, last September.

The Sumitomo gift to Yale is the largest ever received by the university from a benefactor outside the country. Officials of universities and foundations are hoping that other Japanese corporations, including the Mitsui Company, Japan's largest business house, will join the trend established by the recent gifts.

Hosa Hyuga, president of Sumitomo Metal Industries, Ltd., presented the $1-million Japan Society gift to John D. Rockefeller 3d, chairman of the society's board of directors, at the organization's annual dinner last Monday.

The gift to Yale will be announced tomorrow in New Haven by Kingman Brewster Jr., the university's president, and Koji Asai, who recently retired as president of Sumitomo Bank.

Both gifts will be made in installments over five years. Yale will use its money to finance Japanese studies. The Japan Society will give all of its gift away as grants to colleges and universities, study groups and other bodies engaged in Japanese studies.

An official of the Japan Society who did not wish to be identified said yesterday that there was hope that the Sumitomo gift "could be, ah, refreshed, at the end five years, if the program is a success."

In an interview in his suite at the Carlyle Hotel yesterday, Mr. Asai said he hoped the gifts would promote friendly relations between the two countries, especially in light of recent friction over economic and trade issues.

Mr. Asai, who started with Sumitomo Bank as a disbursements ledger clerk 48 years ago—"and that was before we had computers," he laughed—dismissed a suggestion that his group was competing in a generosity contest with Mitsubishi.

"But perhaps our gift will stimulate other contributions," he added with a smile.

Japanese correspondents in New York were amused by Mr. Asai's reticence

"The Zaibatsu compete in all things," one correspondent said, using the Japanese term for the giant family-controlled corporations that ostensibly were broken up after World War II, but that have nonetheless reconstituted themselves as large families of companies. Mitsui Sumitomo and Mitsubishi are the largest.

Mitsubishi's $1-million gift to Harvard last September was widely reported with big headlines in Japan. The Japanese Ministry of Education said in a statement at the time that the gift represented a Japanese business effort to "change the [Japanese] image from that of an economic animal to that of a cultural animal" according to an unofficial translation.

The Japanese even coined a phrase for the Mitsubishi gift to Harvard. It translates as "Japanese version of the Fulbright grant."

POST-WORLD WAR II TREND

Before the recent gifts, Japanese corporations had no tradition of contributing to outside institutions, although Mr. Asai said the Sumitomo Group had aided the Japan Society before World War II. But with economic tensions growing between the two countries, and as Japanese officials complain that American policymakers fail to understand their country's position in world affairs, a new interest has arisen in promoting friendlier relations.

"The attitude there," Rodney Armstrong, executive director of the Japan Society, said yesterday, "is that in the wake of these misunderstandings, they thought, 'If the Americans don't understand us any better than that we ought to sponsor some studies so we can understand each other better!' "

For Mr. Hyuga, the Sumitomo Metal Industries president, the gift to the Japan Society was also a personal one. At the presentation, he told of studying in a library built by the Rockefellers at the University of Tokyo in the 1920's while the university lay in ruins after an earthquake.

He said he was pleased to present the gift "to the son of our benefactor."

[From the Washington Post, July 27, 1973]

JAPAN PLANS AID TO U.S. UNIVERSITIES

(By Don Oberdorfer)

Washington Post Foreign Service

TOKYO, July 26.—Not so many years after his country was receiving handouts from the United States, a Japanese prime minister will fly to Washington with a pledge of $10 million in his kit bag for foreign assistance to American universities.

The Japanese government's plan, as reported by reliable sources here today, is to announce its largesse for the U.S. schools during Premier Kakuei Tanaka's visit to Washington next week for summit talks with President Nixon.

According to present planning—subject to final bureaucratic review in characteristic Tokyo fashion—the money will be funnelled through the government's Japan Foundation to help selected schools support and expand their Japanese studies programs.

The recently-announced gift to American universities by West Germany, another nation defeated by the United States in World War II, helped the Japanese to action. The German gift, $45 million over more than 10 years, is larger in sum but smaller in its immediate impact than Japan's planned one-year benefaction.

POSSIBLE RECIPIENTS

More than 100 American Universities are reported to be equipped with educational programs of some sort on Japan, but most of the money will probably go to a few schools which have been the leaders in the field. The prominent ones are said to include Harvard, Yale, Princeton, Columbia, Stanford and the Universities of Michigan, and Washington.

According to governmental sources here, no decision has yet been made on how the money will be apportioned. That delicate task will probably be left unfinished until Premier Tanaka has left the United States, lest an embarrassing and perhaps unseemly scramble for the funds complicate his visit.

In recent weeks, Harvard and Columbia have sent missions here to solicit money from the increasingly affluent Japanese. Former U.S. Ambassador Edwin O. Reischauer, who was seeking up to $15 million to finance Harvard's Japanese studies Institute, was reportedly equipped with detailed plans and glossy full-color brochures to lure government officials and industralists.

A few months ago, Japanese business firms gave $2 million to Yale and $1 million to Harvard Law School.

WHY AMERICA?

Some criticism has been voiced here at the idea of large gifts from Japan to rich universities of the richest country on earth. The critics says the money would be more appropriately spent to aid the educational processes of the poor nations of Southeast Asia and other areas where Japan has important interests.

Those who conceived the aid-to-America plan, however, argue that bridging the "communications gap" with the United States is a high-priority objective. They are backed up by Japanese financed studies, by U.S. research firms, which say the money to American schools will be a public relations asset as well as an aid to increased U.S. understanding of this country.

The government has also been preparing for the policy discussions scheduled early next week with Mr. Nixon. Today, Premier Tanaka and Foreign Minister Masayoshi Ohira met to discuss their Indochina economic aid programs. U.S. presidential aide Henry Kissinger's proposal for a new Atlantic charter, energy and food issues and U.S.-Japan economic relations.

Japanese diplomats began meeting yesterday with North Vietnamese diplomats in Paris to discuss normalization of relations. The Indochina aid program—which is expected to be an important topic in the Nixon-Tanaka talks—is reported to be in an advanced stage of planning here. Ohira told a news conference today that the government will complete an outline of the plan after hearing American views on the topic next week.

[From the Washington Post, Aug. 8, 1973]

JAPAN LISTS U.S. SCHOOLS FOR GRANTS

TOKYO, August 7.—The government today selected 10 prominent American universities to receive $1 million each in public funds to further Japanese studies in the United States.

The decision carries forward the pledge of $10 million in educational aid announced by Premier Kakuei Tanaka during his trip to Washington last week.

The universities selected to receive the grants Harvard, Yale, Princeton, Columbia,

Michigan, Chicago, Stanford, California, Washington in Seattle and Hawaii. The foreign ministry announcement said the traditions, past achievements and present scope of Japanese studies had been taken into account in making the choice. The 10 universities are all members of the Inter-university Center for Japanese Language Studies in Tokyo.

Officials here said each university will be expected to establish an endowment fund and to use the proceeds for stimulating Japanese studies, perhaps through a professorship. The funds allocated today will have to be appropriated by the legislature. The new studies program is expected to begin in September 1974.

"MURDER BY HANDGUN: THE CASE FOR GUN CONTROL"—NO. 46

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HARRINGTON. Mr. Speaker, today 12 people will be killed by handguns in the United States. In Great Britain only one person is killed by a handgun every 7½ weeks. The reason for this cannot be stricter punishment for the crime. In Great Britain there is no capital punishment; in our country the death penalty has been reinstated in some States.

It seems to me that a more plausible reason for the lower handgun murder rate in Britain, would be the one offered by the British Home Secretary Robert Carr. He said:

There is clear evidence that the ready availability of guns leads to their use in crime.

The State of Massachusetts, has twice as many legally certified handguns as do England and Wales. The homicide rate is understandably higher.

I am asking the people who represent the citizens of our country to look at the figures of handgun murders; and then decide whether or not they can oppose gun control legislation and ignore the more than 9,000 people who will die by handgun next year.

At this time I would like to include Nathan Cobb's article from the August 12, Boston Globe, and another report of a handgun murder from the November 4, New York Times.

[From the New York Times, Nov. 4, 1973]

METROPOLITAN BRIEFS FROM THE POLICE BLOTTER

One man was shot and killed and another wounded in the attempted holdup of Club 83, 151 Lenox Avenue, near 118th Street. The police said the dead man, James Thomas, 43 years old, of 559 West 158th Street, was in the restaurant when two men wearing ski masks and brandishing pistols entered and announced a holdup. Mr. Thomas struggled with the gunmen and several shots were fired, one of which struck him in the head, killing him instantly. Another shot wounded Alexander Brown, 30, of 987 Union Avenue the Bronx, in the abdomen. The police said Mr. Brown was holding a .45-caliber revolver. He was taken in custody to Harlem Hospital, where he was listed in critical condition.

[From the Boston Globe, Aug. 12, 1973]

BRITAIN'S HANDGUN CRIMES INFINITESIMAL COMPARED WITH UNITED STATES

(By Nathan Cobb)

LONDON.—The bobby straightened his dark cap and smiled easily at the American who had asked him the question.

"Handguns" he replied, trying to be polite. "Your government writes reports about them. Ours does something about them."

Indeed, while the National Advisory Commission on Criminal Justice Standards and Goals last week recommended a nationwide ban on handguns in the United States—at least the fourth such national crime commission to do so during the past six years—the British government is measuring public response to its laws in the world.

British officials are reluctant to claim they have solutions to American problems. But many shake their heads when comparing handgun statistics in the two countries:

In all of England and Wales, there are an estimated 57,000 legally certified handguns, less than one-half the number in Massachusetts alone.

There is estimated to be one handgun for every 114 British families. In the United States, there are between 30 and 40 million handguns—roughly one for every 1.4 families.

In 1971, the last year for which figures are available, seven persons were murdered with handguns in England and Wales, while 8991 were killed in the United States.

One person is murdered with a handgun in England and Wales every seven and one-half weeks; it happens in America every 58 minutes.

In London, with a population of nearly eight million people, there were only two handgun murders during all of last year. Boston, with a population one-twelfth as large, had 43 handgun slayings.

In England and Wales, there are 2500 registered firearms dealers, one for every 22,000 people. The United States has 150,000 federally licensed dealers, one for every 1350 persons.

"We haven't got a problem like America's because we don't have the number of guns you have," one Home Office spokesman explained last week.

"We have an occasional shotgun slaying, or a stabbing or two. We even have axe murders. But it's almost never pistols."

Nor are handguns frequently used in other types of crimes in Britain: only 203 of 7465 robberies in 1971, and 59 of 46,153 assaults. In the United States, annual figures in these categories run into the hundreds of thousands.

Quite simply, it is not nearly as easy to acquire a handgun in Britain—where even police are armed only in emergency situations—as it is in the United States.

Since 1920, it has been in Britain an offense to buy, possess, use or carry a pistol (or rifle) and its ammunition without a certificate from a police chief. If more than one gun is desired, a special variance must be approved by police. The certificate also specifies the amount of ammunition that may be purchased or owned.

There are currently 190,646 firearms certificates in England and Wales, the vast majority are held in rural areas. Government officials claim they do not know how many are for handguns, but an independent study by Colin Greenwood, chief inspector, West Yorkshire Constabulary, recently indicated that each certificate represents 1.34 firearms and that 22.4 percent of the certificates were for pistols. Using this formula, there are only about 57,000 legally held handguns in Great Britain.

Certain types of people such as (convicted persons or persons of unsound mind) are prohibited from acquiring certificates. But the police may also refuse to certify any person "unfitted to be entrusted with a firearm," which gives them enough leeway to refuse virtually anyone for any reason.

The United States has no such system of controls. The 1968 Federal Gun Control Act primarily bans mail order sales of firearms as well as over-the-counter sales of handguns to out-of-state residents. It requires only a drivers' license as proof of residence and does not control quantities of ammunition at all.

The British system is similar to the Massachusetts gun control statute, passed in 1968, which is among the strictest in the country. This law, however, has not prevented sizable numbers of illegal guns from entering the Commonwealth from states with lax gun laws.

In Great Britain, it is also illegal to regularly carry a firearm on the street. A certificate holder must keep his weapons and ammunition in a safe place when not using them, and can only legally transport them to a place where they can be properly used.

In the United States, several states do not regulate the carrying of handguns at all, while others, such as Massachusetts require a license.

Further, personal or household protection is not considered to be a valid cause for a private person to possess a handgun in Great Britain. Technically it is not illegal, but the Home Office has unofficially defined its "good reasons" for having a handgun as sporting purposes and target shooting only.

Not that Britons aren't worried about rising firearms crime rates, particularly in London. In May, the Home Office released a "green paper," compiled by a committee of police officers and government officials, proposing to stiffen firearms laws.

As the green paper points out, there is "a growth in the use of firearms in crime" in Britain, a trend that parallels a general crime increase that has been going on for some time. Most of the increase, the government says, is caused by the use of shotguns and air weapons. The certification process for shotguns is not as stringent as handguns and rifles, while air weapons are generally not certified at all.

These two types of guns accounted for three out of every four firearms offenses in 1971, while handguns were involved in only 14 percent. That, the government says, is why it wants to bring shotguns and air weapons under the same control as handguns.

After a current "consultation period"—during which citizens can voice their reactions to the proposals of the green paper—the government is expected to produce a "white paper," or actual bill.

Within this new legislation, the government does not intend to leave its stricter handgun regulations untouched. It proposes to specify exactly what should, or should not, count as good reasons for possessing a handgun or rifle, thus making its current unofficial policy statutory. It wants also to ban future certification of gun collectors and persons who keep guns as trophies or souvenirs.

Says British Home Secretary Robert Carr: "In my view, the question is not whether we should have stricter controls, but the kind of stricter controls which should be introduced."

Negative reaction to the new proposals has come primarily from shooting groups and trade organizations which do not want stringent certification of shotguns. But Britain's "gun lobby" is miniscule when compared to that in the United States: its National Rifle Assn. (NRA) has 15,000 members while the American NRA claims one million strong. Like its American counterpart, the British gun lobby takes the position that the answer to gun crime is a firmer line in the courts.

The government takes a somewhat different view, stating in its green paper that "two kinds of measures are required for the prevention of crime—measures to reduce the opportunities open to the criminal, as well as those which provide for his punishment."

Home Secretary Carr said: "There is clear evidence that the ready availability of guns leads to their use in crime. A considerable minority of law-abiding people must be asked to put up with some increased inconvenience."

The government's opponents on the question argue that controls do not keep guns out of the hands of criminals. They claim that the results of official "amnesties"—seven periods since 1933 during which persons could turn in guns to police with no questions asked—indicate there may be as many uncertified handguns as certified.

But the government feels that most of these are turned in by law-abiding citizens holding them as souvenirs from the war years. Indeed, the numbers turned in during amnesties have been dropping since 1946.

Besides, Britons seem to feel that even if there are as many illegal guns as legal ones, the total number is so small compared to the United States that they are thankful for strong controls.

"We must ask ourselves," the government states through its green paper, "what the situation would have been with no controls, or weaker controls."

Tony Judge, an executive of the Police Federation, Britain's police trade union, this week summed up the feelings of his countrymen: "We believe the only way to prevent expansion of the criminal use of firearms is to stop it when it's very small," he said.

"We admit that the number of incidents of armed crime is rising each year," he added, "but compared to the United States, it's infinitesimal, isn't it?"

	Handguns	Dealers	Murders
United States	35,000,000	150,000	8,991
Great Britain	57,000	2,500	7

Note: Chart compares the United States with England and Wales in 1971.

SHORTAGES ON OTHER MATERIALS

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BIAGGI. Mr. Speaker, this country is experiencing shortages in basic materials the likes of which we have not seen since World War II. Oil and gas are receiving the greatest attention, but other industries are suffering from shortages as well.

Two firms in my district in New York City are responsible for most of the wire mesh and concrete reinforcing bars used in the construction industry. They have countless numbers of orders on hand, but cannot obtain sufficient supplies of steel for fabrication. The question is why?

This administration appears more concerned about keeping its friends abroad than providing for the needs of people here at home. We are exporting oil. We are exporting large supplies of food commodities. We are exporting scrap metal, the basic raw material for fabricated steel. This exportation has got to stop. America's needs must be met first.

Now there are those in the administration who allege there is no shortage in the fabricated steel industry. Of course, these are the same people who said there would be ample wheat, oil, and gas. The figures, though, prove the fact that there is a serious shortage.

A survey of New York users of steel reinforcing bars and wire mesh showed the following:

Ten major projects employing over 1,000 tradesmen were receiving between 25 and 50 percent of their requirements;

A combined school and apartment building project being constructed by the Board of Education suffered a 20 percent cutback in its workforce and expects to shut down shortly;

Several housing projects for the elderly and the poor are either sharply cutback or shut down as a result of a shortage in steel products.

The crisis in the steel fabrication industry is a result of two major problems: diminished supplies in the face of increased demand and price controls on the reinforcing bars.

The supply problem developed when demand for steel rose to unprecedented heights. Mills are now running at capacity and setting records for production. Backlogs of orders are mounting. At the same time, imports which had posed a threat to the American steel industry a few years ago have now fallen off considerably. Total imports in 1972 were 358,216 tons. For the first 7 months of this year, imports were less than 100,000 tons. Similarly, exports have increased. In 1971, 40,540 tons of steel reinforcing bars were exported. In 1972, 22,416 tons were exported. For the first 8 months of this year almost 70,000 tons of rebars were exported with records expected to be set in the remaining months of the year.

Moreover, concrete reinforcing bars are produced in mills after demands are met for carbon bars and bar shapes which bring substantially higher prices. The latter are used by the automotive industry which had a peak year in 1973 and expect big sales next year.

A better balance between production of these various bars would be possible if the Cost of Living Council would permit an increase in the price of reinforcing bars and if it would permit such increases to be passed on dollar for dollar to the ultimate consumer. Otherwise, no company will manufacture these reinforcing bars at a loss as they presently must do.

The fact is many very important construction projects are going undone or are moving at a snail's pace because of lack of supplies. The construction industry has suffered a marked downturn in activity throughout the Nation. Lack of the basic building materials is a major factor in this decline.

What can be done to solve the problem? First a ban on all exports of reinforcing bars and wire mesh as well as an embargo on the export of scrap metal must be implemented immediately by the President.

Second, the Cost of Living Council should approve price increases in the finished products representing the increased costs of raw materials. The head-in-the-sand approach of the Cost of Living Council ignores the realities of the current market situation.

Third, a temporary relaxation of pollution control standards should be authorized by the President to permit steel mills now idle as a result of these laws to start producing again.

Unfortunately, these three actions require a response from the President, who has been reluctant to do anything to upset his export plan, to deter his price program or to help the American consumer.

I will be circulating a letter for which I am seeking cosponsors asking the Cost of Living Council to approve price increases for steel reinforcing bars and similar products as soon as possible and to permit pass through of increased costs in raw materials in much the same way as such costs are permitted to be passed through in the petroleum industry.

In addition to the letter, I am urging my colleagues in the Senate on the Banking, Housing, and Urban Affairs Committee to approve legislation now being considered by them that would provide mandatory controls on the export of scrap metal and steel products.

I urge my colleagues in the House to join me in these two efforts so that we can save a vital industry from total disruption and possible destruction. We must act quickly.

PHYLLIS KILBY: FIGHTING FOR THE FARMER

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BAUMAN. Mr. Speaker, one of the most important segments of the economy in the First Congressional District of Maryland is agriculture. As in every profession or occupation, there are always people who stand out because of their talent and ability. Recently, the Maryland Farm News published by the Maryland Farm Bureau of which I am a member published an article about Phyllis Kilby, one of the real leaders in our State's agricultural community.

At 25, Mrs. Kilby is the chairman of the State's Young Farmer Committee, and I am proud to have her as resident of my district in Cecil County. I know her personally, and I commend to the Members this excellent article. The article follows:

CECIL COUNTY'S PHYLLIS KILBY—FIGHTING FOR THE FARMER

For the daughter of a Pennsylvania steelworker, it was quite an adjustment becoming the wife of a Maryland farmer.

"It took me a while to get used to the hours and to the seven-day work week," said Phyllis Kilby, "but now I'm deeply committed to fighting for this way of life."

It is this struggle for existence that Mrs. Kilby has been concerned with during the past year in her position as chairman of the State's Young Farmer Committee.

"Young farmers are definitely the future of the Maryland Farm Bureau," she said, "and we've tried this year to move toward more of an action-oriented approach."

This approach hopefully will pay dividends in the next few years, she explained, in terms of young farmers being elected to Farm Bureau positions and in terms of the young farmers acting as a pressure group on the more established Farm Bureau constituency.

"Once you see what the farmer is fighting for, it makes you want to start fighting for it too," she said, "and this is an industry that is heading for extinction unless we do something."

When she was 18 years old and living in Pennsylvania, Mrs. Kilby never dreamed of being involved in the farmer's struggles. Then she met Bill Kilby, got married, and the turn-about began.

The Kilbys farm 230 acres with Mr. Kilby's brother and father in Colora, Cecil County. Most of their operation is dairy, and they've been experiencing the problems facing all dairy farmers these days.

Some people felt Mrs. Kilby was too young at age 25 to handle the State Chairmanship. But she says "I'm pleased with what we've done this year; we've even made a bit of headway with the Board of Directors—at least they don't think Young Farmers is a token group anymore."

Four new YF groups have been organized this year. In addition the YF programs have taken on an action-type structure. Typical of this approach was the annual tour of the Legislature in Annapolis.

"In past years we went just to see how things operated, but this year we went to learn how we could become more effective and get things done in Annapolis," she explained.

"We're gearing up this year for real action efforts next year" she added. "These will come in the areas of reaching the consumer, new programs and legislative activities."

"Young farmers have to make themselves heard because they're the ones struggling to make farming work; they're the future."

DRINAN SUPPORTS PETROCHEMICAL INDUSTRY

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. DRINAN. Mr. Speaker, yesterday I voted in favor of the mandatory allocation bill (S. 1570). This bill authorized the President to allocate crude oil and refined petroleum products to deal with existing or imminent shortages and dislocations in the national distribution system which jeopardize the public health, safety and welfare.

I recently had an opportunity to discuss the petrochemical crisis in my congressional district with leading businessmen in the New England plastics industry. These industries are in extremely difficult straits because of the shortage of petrochemicals, the harmful restraints of current phase IV price-control regulations upon petrochemicals and plastic feed stocks, and the excessive growth of petrochemical and plastic feedstock exports.

The legislative history contained in the joint explanatory statement of the committee of conference on this bill gives some support to the petrochemical industry. The statement of conferees, in discussing this legislation, states that:

It is fully recognized that, in some instances, it may be impossible to satisfy one objective without sacrificing the accomplishment of another. For example, the President could not totally allocate propane to agricultural and rural heating needs and at the same time give consideration to the identified objective of preserving and fostering competition in the petrochemical industry. For this reason the direction to the President is qualified to permit the regulations to be constructive so as to accomplish the enumerated objective to the maximum extent practible."

I am hopeful that the President will act on the sense of this legislation, which is intended to give him administrative flexibility in marshaling short supplies and allocating them to particular needs.

Other evidence of the intent to help the petrochemical industry can be found in the conference report. In discussing the use of the term "distillate" in this legislation, the conferees state:

It is the committee's intent, however, that this term also reach to include naphtha and benzine, so as to require the allocation of these products as may be necessary to accomplish the objective of restoring and fostering competition in the petrochemical sector of the industry. In this respect the Conference wishes to emphasize that, in expressing Congressional concern with fostering competition in the petrochemical industry, the Committee intends to also identify petrochemical feedstock needs as important end-uses for which allocations should be made.

Similarly, in discussing the allocation of propane, the conferees wish to make sure "that in allocating propane to farmers and others—the President—does not force petrochemical and glass plants across the country to close their doors." It is the express intent of the conferees that the President administer the allocation of fuels—including propane and other refined petroleum products—covered by this legislation in such a way as to avoid the closings of industry, significant unemployment or serious economic stress in specific areas or regions of the Nation.

Unfortunately, there is always the possibility that the President will not act to foster competition and maintain viability in the petrochemical industry. I am hopeful that the clearly enunciated objectives quoted above will give the President and his advisors the needed direction to maintain the viability of our petrochemical industry.

The worldwide energy shortage has seriously decreased our available supply of petrochemicals and plastic feedstocks. The petrochemicals, which uses about 5 percent of total petroleum products, has its very survival in severe jeopardy. I am hopeful that protection of this industry by these allocation provisions can be afforded to the petrochemical industry. It is unfortunate that no industry or segment of the society can expect to get through the present energy crisis with as much petroleum as they might want. With the burden of the shortages spread equitably, the situation is still not a good one, but is a vast improvement over the present one.

I am hopeful that this urgently needed legislation will overcome the pronounced shortcomings imposed on the petrochemical industry by export limitations and phase IV controls.

A BILL TO PROTECT THE CONSUMER AGAINST WORTHLESS MONEY ORDERS, AND FOR OTHER PURPOSES

HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 13, 1973

Mr. BROYHILL of Virginia. Mr. Speaker, I introduced a bill today to protect the consumer against worthless money orders. This bill will assure those persons who choose money orders to satisfy financial obligations that they will not be cheated out of their money due to fraud or the financial insolvency of the company from which the money order was purchased. It is particularly applicable to poor people who use the private money order business as a primary means to pay rent, utility bills, car payments, insurance payments, medical expenses and who can least afford to find their payments forfeit and their money gone when the money order bounces. Thousands of poor people, as well as all users of money orders could rely on workable, fair and inexpensive bonding and licensing arrangements to protect them in this important matter with a new measure of security and protection.

Mr. Speaker, this bill provides for the Board of Governors of the Federal Reserve System to promulgate regulations to carry out the bill's intent, and provides criminal penalties for supplying false information or in other ways failing to comply with its provisions. Further, there is established a requirement that those persons engaged in the issuance of money orders be required to post a bond of $50,000 for each State in which he does business with additional amounts required depending upon the number of sales outlets he maintains. In addition, these persons must file an information statement with the Federal Reserve District Office for the State in which he is operating, the content of which would be a matter of public record. Based upon satisfactory performance of these procedures, the issuer would then be granted a certificate of compliance by the Board of Governors of the Federal Reserve System. No one could engage in the issuance of money orders without such a certificate.

Mr. Speaker, I should like to point out at this time that I am fully aware that many States have passed laws regulating the money order business. My bill recognizes this fact in that it permits the Federal Reserve Board to exempt from the operation of the Federal law those jurisdictions who laws in this area are as strong or stronger than those provided by my bill. Therefore, a State could choose to undertake the regulation itself merely by passing a strong law.

Mr. Speaker, I believe this to be a good bill and long overdue. I urge its enactment.

BAN THE HANDGUN—III

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BINGHAM. Mr. Speaker, the New York Post's November 12 article, printed below, describing the shooting of a 78-year-old man while he was walking his dog and other shooting homicides, illustrates again the horrible consequences of allowing private citizens easy access to handguns. So long as we fail to implement strict gun controls we can do little but offer our sympathies to the victims and families of these vicious attacks:

MAN, 78, SHOT AS HE TAKES DOG FOR WALK

A 78-year-old Washington Heights man was shot early today while walking his dog near his home. He was in critical condition in Columbia-Presbyterian Medical Center.

Eugene Bunn, of 245 Bennett Av., was walking his dog near W. 192d St., a half-block from his home, about 1 a.m. when an unidentified person fired one shot, striking Bunn in the head, police said.

They said there apparently were no witnesses to the attack, in the hilly upper Manhattan neighborhood near Fort Tryon Park.

Police said no motive could be established. Bunn, who is retired, and his wife took turns several times each day walking the dog, a black and white mixed breed of medium size, according to neighbors.

The couple live on the second floor of a seven-story, 20-year-old building which overlooks rocks and shrubbery on the western side of Bennett Av.

BROOKLYN SHOOTING

Two hours later, in another shooting, a 27-year-old man was critically wounded in a dispute in a Brooklyn bar.

According to police, Earlitto Perez was shot by an unknown man shortly before 3 a.m. in the Scarlett Lounge at 738 Franklin Av.

In a weekend shootout, a man in his 20s was shot and killed by an accomplice early yesterday when confused gunfire erupted during an unsuccessful attempt to rob Benny's Bar and Grill, 753 Union Av., the Bronx.

The confusion began when a customer at the bar, identified by police as Angelo Caldron, 28, protested the stickup by throwing a bar stool at one of the four or five gunmen.

In the ensuing gunfire, Caldron was slightly wounded and one of the bandits fatally shot the accomplice in the head. The robbers fled empty handed.

In the West Bronx yesterday, a shootout left one man dead and another wounded after an altercation in a tenement hallway at 1910 Davidson Av.

In the ground-floor hallway, police found an unidentified man, about 22 years old, dead with a bullet in the chest. They also found Russell Bannister, 22, a resident of the building, who was wounded with a bullet in the left leg.

THE HONORING OF CHIEF GLENN ADAMS

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BURGENER. Mr. Speaker, tonight in La Mesa a dinner will be held to honor a man who has served our community as chief of police since 1946. During the years since the end of World War II, Chief Glenn Adams has rendered outstanding service in both his professional capacity as police chief and his private capacity as a generous and concerned citizen.

As the chief of police, Glenn has presided over the expansion of the force from five men to its present 50. He has been an innovative chief of an innovative police force. Under his direction the La Mesa Police Force has updated their facilities, modernized their operation, developed the police ambulance concept and led the way toward higher educational requirements for officers.

As a respected leader in his profession, Chief Adams has served on the California Commission on Criminal Justice, served on the Professionalism Committee of State Police, was named Policeman of the Year by the La Mesa Exchange Club, and is a life member of the California Police Officer's Association.

As a neighbor, Glenn has not restricted his activities to his profession. Among his most noteworthy activities has been his work in the youth for decency movement. He has been involved in many youth oriented activities in the community and in the schools. In addition, he has given many hours to the Edgemoor Hospital as has his charming wife, Ruth.

I am sure that the citizens of La Mesa wish Glenn and Ruth the best of luck in their future endeavors. We have benefited greatly from having them as our neighbors and we are most grateful for their years of devoted service.

MAN AT THE TOP

HON. HENRY HELSTOSKI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HELSTOSKI. Mr. Speaker, this year, one of New Jersey's leading citizens, Alfred N. Sanzari, has been named "Man of the Year" by the Hackensack Chapter of UNICO International. This award, however, is just one of many given to my friend, Al Sanzari, during his career as one of our State's most respected businessmen and civic leaders.

In addition to having received wide acclaim as one of New Jersey's foremost builders, Mr. Sanzari serves on the board of one of our leading financial institutions, and has been a member of the Bergen County Housing Authority for 8 years.

Today, I salute Al Sanzari and thank him for his endless efforts to make Bergen County a better place for people to live. His neighbors have benefited from his vision, good sense, and integrity.

Mr. Speaker, I wish to share with my colleagues an article which appeared in the October issue of Bergen, the Bergen County Chamber of Commerce monthly magazine. The article, entitled "Al Sanzari/Man at the Top," provides us with additional insight into his successful and diversified career. The article follows:

Most successful men are content to excel in one field, but that is not the case with Alfred N. Sanzari of Hackensack, who has carved brilliant careers for himself in building, banking and public service. One of New Jersey's most honored builders, Mr. Sanzari is also a member of the board of one of the leading financial institutions in the state and is in his eighth year of service to Bergen County as a member of the Housing Authority.

Usually, when a man is that busy, his family life suffers, but Al Sanzari has proved exceptional here, too. He is a staunch family man who seldom misses a vacation with his wife, Mary, and is devoted to their three sons, two of whom are in business with their father.

Despite his success, Mr. Sanzari is essentially modest and he still lives in Hackensack, where he was born and educated. He left his hometown for service with the Office of Strategic Services in World War II, when he was under the famous Gen. William (Wild Bill) Donovan. Although he is reluctant to speak about his wartime exploits, Mr. Sanzari helped to pave the way for Allied landings on the continent of Europe by contacting partisans and members of the underground.

For a time after the war, it seemed that Al Sanzari would follow a career as a racing driver, for he was skillful at the wheel. He drove until the death of two close friends in racing crashes convinced him that he owed it to his wife and young son to follow a less risky occupation.

He had been involved in the building trades before the war and that experience, plus his foresight, led him into home building to satisfy the great demand for homes arising as the armed forces were demobilized. "I still did some racing," Mr. Sanzari recalled, "but when I started selling homes I knew I would never win the Indianapolis 500."

His interest in racing continues to this day and he owns several racers, including the ones used by his son, David, in amassing a cabinet full of trophies; and he never misses an Indianapolis race if he can help it. Because he knows the pit crews and drivers and appreciates the techniques of the racers, he enjoys the event vicariously, as if he were rolling into Victory Lane himself.

But Al Sanzari is no idle dreamer. He is a realist who knows that excellence in any field demands commitment, concentration and enthusism. Perhaps that is the key to his success: He never becomes bored, always looking for new challenges and new frontiers.

As an example of this, he has always been a forerunner among the builders in the country and the state. He was among the founders of the Home Builders Association of Northern New Jersey and he was among the first to advocate that the word "Home" be dropped from the title because he could see other facets of the construction field beckoning.

His Crest Haven Estates development in Wyckoff won an award from the National Association of Builders in 1957, but that did not prevent him from shifting to apartments because he felt that the one-family housing field was becoming saturated and there would be a need for apartments, too.

Consequently, he has built the Clinton Manor Apartments in Dover, the Madison Arms and Yorkview Arms in Hackensack, Nottingham Manor in Montvale, Georgian Arms in Woodbridge, Willow Gardens in Teaneck and at present is developing the Ivanhoe in Hackensack.

This is in addition to hundreds of homes built and sold in New Jersey, Florida and Massachusetts. Unlike some developers, Al Sanzari is a developer-owner so that all his tenants get the personal attention of the builder and are not dealing with a soulless corporation.

It was in the fifties, too, that Mr. Sanzari

decided to diversify. He felt that the housing market was still strong, but he felt that there also would be a demand for industrial space by companies seeking to tap the vast labor pool that Bergen County represented. As a result, he was one of the first of the successful post-World War II home builders to shift to the commercial and industrial construction field.

"Land that wasn't suitable for homes or apartments could be used for light industry or warehouses, I thought," Mr. Sanzari said, "and I felt that it would be a natural step in the growth of the county. Many towns that were seeking tax ratables did not want apartments, but they would take an attractive industrial building, so I put on another hat and went into the industrial construction field."

At present, Mr. Sanzari owns three industrial parks, comprising more than 200 acres and approximately 47 buildings, representing a multi-million dollar investment. All but 60,000 square feet of that space is leased to top-rated tenants who have exercised renewal clauses in virtually every case because they like doing business with Al Sanzari.

When he began looking for industrial land, he evolved a standard that came to be known as Sanzari's Law. The axiom goes this way: "If you can stand on the property a real estate man is showing you and you can see the towers of the George Washington Bridge or the Empire State Building, buy it." The formula has proved remarkably successful.

His first industrial park was in Little Ferry and because he was broadening his horizons, he called it the Horizon Industrial Park. His next move was farther south to the meadowlands area of South Hackensack, where he created the Horizon South Industrial Park. The consistency of names is an indication of Mr. Sanzari's loyalty; he seldom changes subcontractors and has had the same advertising agency for the last 25 years.

Mildred Cantrella, the controller for the many-faceted organization that has become known as Sanzari Enterprises, has been in Mr. Sanzari's employ for 23 years. Of late, some of the tasks Miss Cantrella performed in the past have been taken over by Bruce Seiden, (a former employee of Touche-Ross, the leading accountants), who is director of finance.

Miss Cantrella is concerned with cash flow, billing and the like, while Mr. Seiden works on mortgage placement, subcontractor bids and leasing. His leasing on the industrial side at present consists of finding a tenant for the one remaining building in the Horizon North Industrial Park in Norwood. After the buildings are occupied, they come under the supervision of Dominick Mancini, another long-time employee, who is income property manager.

The Norwood industrial park, developed along the lines of a college campus and dotted with companies engaged in research, represented another aspect of Mr. Sanzari's ability to anticipate the market. With meadowlands sites skyrocketing in price and with title questions cloudy there, he decided to turn to the northern part of the county, which, at that time, had virtually no industrial parks.

The Borough of Norwood had some low land that nearby residents used for a disposal area and although it was just off Broadway, the town fathers were not hopeful about its future. They weren't looking at the land with the visionary eyes of Al Sanzari, though.

"Actually, the big problem was drainage," Mr. Sanzari said. "I thought the proper engineering could solve the problem and could turn the tract into an attractive and valuable piece of property."

This has proved the case, but a lot of ingenuity went into the creation of the Norwood showplace. For instance, living trees were moved to new locations on the site by bulldozer, a feat made possible by the wet conditions of the property. Such a stunt had never been attempted before, but the gamble paid off and only three of 14 trees so moved failed to bloom.

It was just about the time of the Horizon North development that Mr. Sanzari was getting more deeply involved with service on the Bergen County Housing Authority. The authority was becoming an active sponsor of development rather than just an administrative and advisory body and Mr. Sanzari's knowledge of building and construction was called on to save the county and its residents seeking shelter time and money.

Meanwhile, his career in banking was flourishing, too. He was induced to join the Board of Directors of what was then one of the smallest banks in Hackensack, City National Bank, by Harvey J. E. Milkon, an associate from the Builders Association. The bank grew and prospered and was taken over by First National State Bancorporation, New Jersey's first billion-dollar financial institution. Mr. Sanzari continued on the board of the First National State Bank of North Jersey, the designation for the multi-bank operation that grew out of City National.

Besides being a board member, Mr. Sanzari has been also one of First National State's best customers. He arranged through the bank the financing of the Ivanhoe, the $7-million apartment on Beech Street and Overlook Avenue in Hackensack. This 24-story building, at present Hackensack's highest, towers over other structures in the area for other reasons besides height. The Ivanhoe represents a breakthrough in construction, with a design-system evolved by Massachusetts Institute of Technology with a grant from U.S. Steel.

Again vision played a role in a Sanzari enterprise. When the design system was explained to him, Mr. Sanzari could see the savings in time and labor costs that would be possible. He knew the apartment market was highly competitive, but he felt the new design would enable him to pass on considerable savings to his tenants in the form of lower rentals.

Schrenko Steel of Upper Saddle River put the system into operation, adapting new techniques to make the most of the new design. Basically, the system involves the use of staggered steel trusses and precast concrete panels, with the staggered trusses allowing for wider open spaces and consequently larger rooms.

Only 11 months elapsed from the start of construction to the opening of model apartments, a record for even a fast builder like Mr. Sanzari. To pass on the savings in financing costs and labor, he evolved a "package rental plan that included all charges—costs of cooking fuel, heating, air-conditioning, wall-to-wall carpeting, membership in swim and health club and space in the security-operated underground parking garage. Comparison shopping shows that no competing apartment can touch the Ivanhoe, where rentals start at $260 for a studio unit.

"Bruce Seiden and David Sanzari deserve credit for expediting work on the Ivanhoe," Mr. Sanzari said. "I told them timing is important and that the key to a successful operation is turning a debit to a credit as soon as possible. They've done a fine job of carrying out orders, following instructions and taking the initiative."

Never content to be doing one thing at a time, Mr. Sanzari was preparing another venture even while the Ivanhoe was being erected. This involved the building of a hotel on the site of the Stagg farm, a holding dating back to the Dutch colonization of Bergen County. A farmhouse whose foundations are 275 years old stands on the property and Mr. Sanzari offered to donate the structure to any historical society that was willing to move it. To give the various interested parties time to make arrangements, he delayed groundbreaking at the site three times.

"I would like to see some remnant of Bergen Country's past preserved," Mr. Sanzari said. "I'm perfectly willing to give the structure away, but I don't think the past should stand in the way of progress."

Perhaps that is his whole philosophy: Never stand still, keep moving ahead. It's a code of action that has won him many honors, including a place in the Hall of Fame of the Builders Association of New Jersey, designation as "Builder of the Year" in 1965 by both the state and the regional builders' group and selection this year as "Man of the Year" by the Hackensack Chapter of UNICO. He has served the Builders Association of Northern New Jersey as president and is still on the board of directors of the regional group, the state organization and the National Association of Home Builders.

A unique personality, Al Sanzari enjoys the confidence of not only management—as represented by the builders—but also of labor—as represented by the trade unions. As a result, he is a trustee for the Bergen County Masons on both their pension fund and welfare fund and holds the same position with the Bergen County Laborers and carpenters. He is a great believer in apprentice programs and has fostered the training of new men in the crafts by serving on the apprenticeship committees of the three unions, also. Another tribute to his character is his recent appointment to the Hackensack Rent Control Board.

Despite his success, Al Sanzari never forgets his humble origins and his family. His brothers have been his business associates for years and a memorial plaque to John Sanzari, killed last year in a construction accident, hangs in his office on West Franklin Street. Another brother, Pat, has been a vice president and consultant to Sanzari Enterprises for 25 years, but more than that he has been a confidant who never fails to be encouraging in addition to David, another son, Ben, is part of Mr. Sanzari's business. His other son, Alfred Jr., is in business for himself.

Mr. and Mrs. Sanzari have a home in Hallandale, Fla., and are looking forward to moving into a penthouse atop the Ivanhoe, where they'll have a striking view of both the New York skyline and the Ramapo Mountains. Mrs. Sanzari, his high-school sweetheart, says her husband hasn't changed much over the years and is unlikely to be different living in a penthouse. It seems that although Al Sanzari might wear many hats, his head size hasn't changed any because of his many successes.

RESTORE TRADITIONAL DATES

HON. THADDEUS J. DULSKI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. DULSKI. Mr. Speaker, as a sponsor of H.R. 5981, to restore the traditional dates of Memorial Day to May 20 and Veterans Day to November 11, I still hope to see action taken on the legislation by next May.

Changing the traditional observance date of Veterans Day has caused particular distress among the group most concerned with it. Our Nation's veterans have, in fact, continued to hold ceremonies on November 11 to honor their fallen comrades. This past Sunday such commemorations were conducted at Ar-

lington Cemetery and all across the country.

In view of the strong feelings about the original Armistice Day and Memorial Day dates, I strongly urge Congress to exempt these days from the "Monday holiday" law.

The following is a newspaper article, describing this week's observances in Erie County, N.Y.:

VETERANS' GROUPS MARK THE ORIGINAL DAY TO HONOR THE NATION'S WAR DEAD

A number of services honoring veterans were held in respect to tradition Sunday, on the date which had been observed as Veterans Day for many years.

The American Legion is on record in opposing a "blatant disregard for historical fact" in changing the traditional Veterans Day observance date from Nov. 11, its county commander said in 9.30 a.m. ceremonies at Forest Lawn Cemetery.

Cmdr. Leroy L. Winkelsas spoke during a wreath-laying ceremony at the Legion Monument. The holding of the service at that time was, in itself, a protest against moving the observance of what originally was designated as Armistice Day from the date on which World War I ended to the fourth Sunday in October, for the expediency of a three-day weekend.

"Unfortunately for the world," Winkelsas said, "the name of Armistice Day proved all too fitting. According to the dictionary definition, the word armistice means a brief cessation of hostilities, and that is what America experienced."

GRAVES DECORATED

The talk was preceded by decoration of veterans' graves. Wreaths also were laid at the monument by Mrs. Annette Klubek, chairman of the ladies' auxiliary of the Legion, and Robert Trowbridge, chef de gare of the 40 & 8 Society.

Others participating were the Rev. Raymond J. Koslowski, county chaplain; Joseph S. Serba, Jr., county bugler; and the Minute Men Firing Squad of Troop I Post.

At the traditional Veterans Day dinner, held Sunday night at Niagara Frontier Post 1041, 533 Amherst St., Winkelsas received the official warrant of county commander. Joseph Paris, director of the Veterans Administration Hospital, was the speaker.

VFW DONATION

At Rich Stadium in Orchard Park, Erie County Executive Edward V. Regan and others participated in a ceremony before the start of the Bills-Bengals football game, dedicating a veterans' memorial. It is a bronze plaque which will be placed on a boulder at the Abbott Rd. entrance to the stadium.

The monument was provided by the posts of the Erie County Council, Veterans of Foreign Wars (VFW), on behalf of all veterans. Replicas were presented to officials of the Bills football club and the county.

County commanders of the American Legion, VFW and Amvets, as well as other representatives of the county and the Bills, also participated.

The United Veterans Committee of Buffalo and Erie County held a ceremony honoring the nation's veterans at 11 a.m. at the Doughboy Monument in front of the State Armory, 184 Connecticut St.

Hamburg Post 527, American Legion, held ceremonies in the post at 11 a.m., and a dinner at 6:30 p.m.

Members of Riverside Post 1010, American Legion, attended services at Forest Ave. Christian Church at 11 a.m., which was followed by a brunch at the post, 40 Hartman Pl. Members then conducted services at monuments in front of Riverside High School, in Riverside Park and at the park's casino.

MEMORIAL ON SPAN

The United Veterans' Council of the Tonawandas held an observance at the World War I Monument in the center of the Bascule Bridge between Tonawanda and North Tonawanda at 1 p.m. A wreath was cast into the Barge Canal by members of the Marine Corps League.

The council also sponsored a program at 2 p.m. in the council chambers at Tonawanda City Hall, including a band concert. A special plaque was presented to the Rev. Charles W. Hobbs, minister of the United Church of Christ of Pendleton, for his services to the council for the past 15 years.

At 4 p.m., a flagpole donated by the Boston Amvets Post to Post 26 Amvets, 600 Ward Rd., North Tonawanda, was dedicated at the latter location.

CONTINUING EDUCATION FOR WORKERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. FRASER. Mr. Speaker, continuing education is becoming an increasingly important aspect of the education process. It is a necessary process for professionals as evidenced by the many updating seminars and meetings held by professional organizations. Continuing education makes sense for senior citizens. Young people take advantage of continuous or continuing education. Why not continuing education for workers?

The following article appeared in the November 1973 issue of the Progressive. It tells about a program of continuing education for French workers. I commend it to my colleagues:

EDUCATING FRENCH WORKERS

Betty and Francoise are secretaries performing stultifying chores at insurance firms. Although Betty works in New York City and Francoise in Paris, their daily routines are surprisingly similar. Every workday morning, each is faced with stacks of boring letters and forms to type for her employer. They share the nine-to-five doldrums and the prospect of a daily round-trip on rush-hour subways. Each is entitled to three weeks of paid vacation a year, plus ten days of sick leave with pay. They spend unoccupied moments thinking about the vacation, which always seems remote.

The only major difference between them is that next year, while Betty attempts to get one extra week off and perhaps applies for a job as secretary to the assistant marketing manager, Francoise will be studying poetry, full-time, at the Sorbonne, at almost her full salary, with no loss of job seniority. In France, thanks to a recently introduced education program, Francoise's year of study is not a privilege extended by her employer; it is her right.

The program is called *"la Formation Permanente"* (Continuing Education). It became law in July 1971, and is credited to Jacques Delors, who served in the government under former Premier Chaban Delmas. Basically, the law entitles every French worker who has been employed by a firm for more than two years, and who has not received a degree in the last three years, to one year of full-time, or 1,200 hours of part-time, study or training, financed by the worker's employer and the government. The study or training program may, but need not necessarily, be work-related. Thus, theoretically, an auto mechanic may study philosophy, poetry, mathematics, or other equally "useless" subjects at his employer's expense. If the employe is less than eighteen years of age, he or she need have been employed by the firm for only six months. The program covers not only the nineteen million French agricultural and industrial workers, but the almost two million foreign workers in France as well. Only employes less than five years from retirement are ineligible. Although government workers, with the exception of school teachers, are not currently covered, a similar education program is being developed for them.

During the program's first year of operation, an estimated 300,000 workers were enrolled in full or part-time study or training. Officials estimate that half a million workers throughout the country will be participating this year.

Although many American vocational schools, community colleges, and university extension programs offer free or low-cost educational opportunities, neither the American employer nor the Government is legally bound to pay workers' salaries while they study. In France, Continuing Education is financed by the government and employers. Under the law, employers must now invest 0.3 per cent of their gross payroll in worker study. By 1976, the law calls for employers to spend two per cent of their total payrolls on the project, ensuring that workers can study and still earn almost their full salaries. During the study period the government contributes to the worker's social security account.

The program is unique. And it is especially remarkable since it was developed in France, a nation not known for progressive social legislation. There was opposition to the plan when it was proposed. Though many employers supported the concept of manpower training, they doubted that workers should have the "right" to study non-job-connected subjects. Gradually, however, France's major industrialists realized that Continuing Education was good for business, since most workers would probably choose to study job-related subjects. In addition, employers sensed that the program would migrate worker alienation and dissatisfaction, which had contributed substantially to the turmoil of May 1968, when French shops, factories, and universities were closed by anti-government strikes and street fighting.

Educators feared the program would place an insupportable strain on resources of the already overburdened and underfinanced university system. Thus, some worker education programs, it was argued, would be left to industrialists to establish themselves and to *merchandes de soupe*—those "soup merchants" who would profit by setting up courses and collecting tuition fees. The government, however, anticipated the potential educational rip-off factor, and provided that a special division of the Ministry of Labor would be responsible for certifying all study and training centers. If a program does not have the government's approval, it cannot receive employers' francs. As it turns out, business seems to be booming in the Continuing Education field. Universities have strengthened extension programs; in areas without a university, several companies have joined together to set up job-connected training requested by their employes.

The major problem encountered so far is human inertia. The government has launched a broad campaign of educating the working population about the new program, but has encountered some difficulties in interesting its citizens in returning to school and taking advantage of their new right. French workers, moreover, are still suspicious, despite legal guarantees, that enrollment may result in forfeiture of a desired promotion or withholding of a salary increase. Thus, even though the program is

being filled, retraining centers have not been deluged, as was predicted, by hordes of applicants.

Continuing Education, which gets such limited backing in the United States, has created quite a stir in Europe. Several Common Market nations—the Netherlands in particular—have been observing the program's progress with great interest. French officials predict the program will eventually spread throughout the Market countries.

French industry has come to view its monetary contribution to the program as a means of bringing the French working force into the Twentieth Century. French companies, above all, recognize that the labor force must be "industrialized" if France is to continue its rapid rate of economic expansion. An alienated work force, whose skills are antiquated and technologically unsophisticated, would inevitably limit economic growth. The government's commitment to the program is demonstrated by its willingness to permit up to two per cent of the labor force to be enrolled in the program in any single year, though France, with an unemployment rate of only 2.3 per cent (generally considered full employment by economists), imports foreign labor.

The program has also served to buy off the leftist sentiments of many French workers—in a country in which about forty per cent of the population voted Communist or Socialist in the last election. French unions, whose rhetoric, at least, is much more left-oriented than that of their American counterparts, originally objected to the education project on ideological grounds: they did not want to be "integrated" into the capitalist system. The program's creator, Delors, denies that unions have impeded the project, but government officials report that, even now, unions are reluctant to support it.

Nevertheless, by any measure, *la Formation Permanente* is a stroke of genius on the part of the French government. It provides French workers an opportunity to train for their own advancement or cultural enrichment, and it helps France to increase worker productivity and counter worker discontent.

CALL FOR ACTION AGAINST POLLUTION

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. DERWINSKI. Mr. Speaker, special concern to the residents of the Chicago metropolitan area is a problem on pollution in Lake Michigan. Every effort must be taken to preserve this Great Lake from the pollutants from the Northern Shore suburbs and Wisconsin.

A very timely editorial was carried by Chicago radio station WIND which directs special attention to the complications involved.

[Broadcast Nov. 2–4, 1973]

POLLUTION

(By Philip E. Nolan)

On a recent Call for Action show on WIND, Dr. David Comey made a simple, but often overlooked, point about pollution and Lake Michigan.

Almost no pollution is caused by Chicago, primarily because Chicago pollutes the Chicago River and it flows Downstate. The culprits, in the case of Lake Michigan, are the North Shore suburbs and Wisconsin.

Dr. Comey is Director of Environmental Research for the Business and Professional People for the Public Interest and he says the chief battleground in the fight against pollution is no longer demonstrations and public events, but the courts.

Both of Dr. Comey's points were focused the other day in a major victory. A Federal Judge ruled that Illinois could sue Milwaukee in Federal Court on grounds it is polluting the lake.

We believe the Judge is right. Polluters should not be able to hide behind technicalities, nor use statelines as an escape.

Hopefully, the decision will speed the mutual concern of Wisconsin and Illinois for our environment.

A NATIONAL TRIBUTE TO THE CLERGY AND PARISHIONERS OF ST. MARY'S ROMAN CATHOLIC SLOVAK CHURCH OF PASSAIC, N.J., DURING ITS 80TH ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. ROE. Mr. Speaker, earlier today I called your attention to the centennial celebration of the city of Passaic in my Eighth Congressional District, State of New Jersey. During 1973 our people are also celebrating the 80th anniversary of the founding of St. Mary's Roman Catholic Slovak Church located in the city of Passaic. I am honored and privileged to call this historic event to your attention also and request that you join with me in saluting our citizens of Slovak heritage who over these past 80 years have, by their example, engendered the esteem and respect of the residents of my congressional district and the State of New Jersey their steadfast faith, hope, and charity in promulgating the richness of their religious culture through the establishment of St. Mary's Roman Catholic Slovak Church.

Mr. Speaker, I know you and our colleagues here in the Congress will want to join with me in extending our heartiest congratulations and best wishes to the pastor of St. Mary's, Father John J. Demkovich; associate pastor, Father Augustine Sklenar, S.D.; and pastor-emeritus, Msgr. Andrew J. Romanak, P.A.; and all of the members of St. Mary's congregation on this historic occasion.

The quality of the leadership of members of the most reverend clergy and our citizens of Slovak heritage who settled in the city of Passaic, N.J., and founded St. Mary's Church is most eloquently intertwined in the history of the church which appeared in the city of Passaic's centennial journal under the authorship of the most distinguished editor of New Jersey's highly prestigious Slovak news publication, the Slovak Catholic Sokol. It gives me great pleasure to request your permission to place this statement on the history of St. Mary's Catholic Slovak Church at this point in our historic journal of Congress, as follows:

ST. MARY'S ROMAN CATHOLIC SLOVAK CHURCH OF PASSAIC, N.J.

For the priests and parishioners of St. Mary's Roman Catholic Slovak Church, located on Monroe and First Streets in Passaic, it is a three-fold celebration: The Centennial of our City, the 80th anniversary of the establishment of this beautiful church and the Golden Jubilee of its pastor-emeritus, Msgr. Andrew J. Romanak, P.A.

The Slovaks settled in Passaic permanently on December 19, 1879. They established their first Society of St. Stephen in 1882, and the Parish of St. Mary was established in 1893. Father Samuel Bejla of Bayonne, N.J., celebrated the mass for them, in the basement of St. Nicholas Church. In 1894, Father Bernard M. Skulik was appointed their pastor. He was followed by Father B. Kwiatkowski and Father Joseph L. Ligday, who started a Sunday School under the church, for the children. After his departure, Father John Sheppard of St. Nicholas Church was administrator. In April, 1896, Father John E. Polyakovics was appointed pastor. He started a regular school under the church, with an organist as teacher. He was followed by Father Ignatius J. Jaskovitz, who was the first Slovak parish priest in America. In late summer of 1898, Father Emery A. Haitinger was appointed pastor and remained in the parish for 24 years. A beautiful church was built during his pastorate in 1902 and dedicated by Bishop John O'Connor in 1903. In 1922 Father D. Salamon was appointed pastor and served until his death in November, 1945. He was followed as pastor, by Msgr. Andrew J. Romanak, A.P., who after reaching the mandatory age of 75 retired in December, 1971 and Bishop Lawrence B. Casey appointed the present pastor, Father John J. Demkovich.

The Sisters of St. Dominic from Mt. St. Mary on the Hudson, Newburgh, N.Y. were invited to teach in the Parochial School by Father Haitinger and have taught several generations for the glory of God and the benefit of mankind.

A new school was erected in 1929 and served as Pope Pius XII Diocesan High School until the new high school was erected. The Parish is blessed with many sons and daughters, who entered the service of God and their country. God Bless and protect our city and its inhabitants.

Mr. Speaker, we do, indeed, extend our congressional salute to the pastor, Father John J. Demkovich and to all of his associate priests, sisters, and parishioners of St. Mary's Roman Catholic Slovak Church of Passaic, N.J., in national tribute to the elegance of their faith and outstanding good works on behalf of our fellow man which has truly enriched our community, State, and Nation.

NIXON'S POLICY ON ENERGY: BLAME CONGRESS

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. OBEY. Mr. Speaker, the column by Roland Evans and Robert Novak in Monday's Washington Post examines the administration's handling of the energy crisis and efforts by the President to blame Congress for causing the crisis. On the first score, Evans and Novak conclude:

There is, therefore, a one-word answer to the question of who is running the government's energy policy: nobody. The consequence is a sloppy, sluggish performance by the Administration which scarcely supports Mr. Nixon's attempts to blame the crisis on Congress.

Indeed it does not. As for the rest of it, Evans and Novak point out that the President ignored Senator HENRY JACKSON's letter of June 1972, warning about U.S. dependence on Middle Eastern oil, and also did nothing about Senator JACKSON's call last December that he name an energy adviser.

Last week, Majority Leader THOMAS P. O'NEILL, JR., replied to the President's charge by declaring:

If anything, this Congress has done more about energy than the Administration.

He noted that the President is only now using the standby authority to make mandatory fuel allocations that Congress gave him last April, and that the bill requiring him to allocate fuels has taken so long to pass because the administration deliberately stalled it through the summer and fall.

In terms of initiatives, consider the President's promise of June 29 to devote an extra $100 million to energy research in the current fiscal year. His promise was made 2 days after the House had voted an additional $23.6 million for coal resource development, geothermal energy research, and other energy research in the interior appropriation bill, over and above the President's request. The Appropriations Committee report had declared:

The Committee believes that a vigorous energy research program in all areas of energy use, resource management, and conservation is vital if Government and industry are to provide the Nation with a sustained and reliable energy supply in the future. The 23% increase in energy research provided in this bill will help reach this objective.

Mr. Speaker, I include the Evans and Novak column at this point:

MR. NIXON'S POLICY ON ENERGY: BLAME CONGRESS

(By Rowland Evans and Robert Novak)

An elite group of 32 businessmen invited to the White House last Wednesday for an advance peek at the new energy program also became witnesses to a momentary clash between President Nixon and his domestic counselor, Melvin R. Laird, which reveals much about both the administration's handling of the energy crisis and its general strategy.

Laird was listing energy legislation now in the congressional pipeline when he was interrupted by an obviously irritated President. "But there's nothing on my desk now, is there?" Mr. Nixon asked his counselor. The impression given the businessmen: While Laird was trying to solve the fuel shortage in close cooperation with Congress, the President wanted to blame Congress for causing the crisis.

This contrast between the President and his counselor transcends the energy crisis. But in this case, the presidential attempt to lay blame on Congress particularly infuriates Democratic leaders on Capitol Hill who believe their early warnings about the energy crunch were ignored by the White House. In truth, key administration officials admit the President delayed until it was too late to prevent disaster. Even at this eleventh hour, the administration's handling of the crisis seems fuzzy and uncoordinated.

Sen. Henry M. Jackson (D-Wash.), chairman of the Senate Interior Committee, can claim to be the leading Cassandra. His June 13, 1972, letter to the President warning about U.S. dependence on Middle Eastern oil was ignored. So was Jackson's Dec. 10, 1972, call for Mr. Nixon to name an energy adviser.

One reason why Jackson's warnings went unheeded was that domestic policy chief John D. Ehrlichman then tightly controlled decisions on energy as on everything except foreign affairs. Besides being spread thin by trying to monopolize domestic policy, Ehrlichman was busy attempting to keep from going down with the Watergate wreck when energy decisions were needed.

When Ehrlichman finally fell last April, the dominant administration voice in the energy field became Deputy Secretary of the Treasury William Simon. A Wall Street investment expert, Simon at first opposed mandatory fuel allocations but later was convinced by Jackson and other congressional leaders of their necessity.

But on June 29 Gov. John Love of Colorado was appointed energy adviser and quickly ruled against mandatory allocations, delaying for weeks what Democrats in Congress long had been urging. Meanwhile, Simon disappeared from the energy picture along with his valuable expertise. As the crisis deepened last week, Simon was in Nassau attending a Time, Inc., seminar.

Love, popular and well regarded as governor, has been an almost totally unrelieved disappointment here. Even administration officials admit he lacks the background, temperament and governmental powers to be energy adviser. In fact, he does not want the power. One proposal to consolidate the government's scattered energy policymaking functions under him was killed by Iowa.

There is, therefore, a one-word answer to the question of who is running the government's energy policy: nobody. The consequence is a sloppy, sluggish performance by the administration which scarcely supports Mr. Nixon's attempts to blame the crisis on Congress.

When Jackson on Oct. 17 unveiled his legislation for fuel self-sufficiency, Love's office replied it would soon send up its own bill. But one week later, Laird informed Jackson that the many government departments involved had not agreed on anything. That same day, Love told the Senate Interior Committee the administration had no contingency plans in case of an Arab oil cut-off.

Mr. Nixon might not have avoided the crunch even had he heeded Jackson's first warnings. In any event, it is too late now to avoid terribly painful economic consequences resulting from the Arab cut-off. ("It's going to be wild in a few weeks," predicts one consultant who advises the administraton.)

Nevertheless, almost everybody concerned believes Mr. Nixon should belatedly put somebody in charge of the crisis to at least minimize the economic dislocation. In business circles, Secretary of the Treasury George Shultz is talked about as the best choice. But Shultz, overburdened now as Mr. Nixon's economic adviser, does not want the job and probably won't get it.

Besides, the White House seems more interested in goading Congress. Rep. Torbert Macdonald (D-Mass.), chairman of the House subcommittee handling energy legislation and a critic of the President's energy policies who was not invited to last Wednesday's briefing. Macdonald said nothing publicly but, in private, trumpeted his rage in unprintable language. Although the snub to Macdonald might well be the product of now familiar incompetency at the Nixon White House, it also coincided with Mr. Nixon's desire for a cold war with Congress while a fuel-short nation faces a freezing winter.

RESTRICTING USE OF GOVERNMENT LIMOUSINES

HON. WILLIAM H. HUDNUT III

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HUDNUT. Mr. Speaker, today I am introducing on behalf of the distinguished gentleman from Texas (Mr. ECKHARDT) and myself a House concurrent resolution expressing the sense of Congress regarding the use of chauffeur driven limousines by the Federal Government.

Our resolution calls on all agencies of the Federal Government to issue regulations severely limiting the use of chauffeur driven limousines and to provide that the motors of such limousines must be turned off when such limousines are parked and occupied only by the drivers.

The basis of this resolution concerns three significant points. Namely, the need to conserve gasoline; the need to prevent air pollution, and the ever present need to curtail unnecessary spending.

On one day early this fall, a beautiful clear day when the temperature was 76 degrees in Washington, I noted several chauffeur occupied limousines in the Rayburn Building horseshoe after coming back from a subcommittee meeting with reference to the Clean Air Act. The motors of these limousines were running. This not only contributed to air pollution, but also wasted gasoline.

At this time, when our attention is turned to the great need to conserve fuels, I feel the Federal Government should set an example. Passage of this resolution would be a step in that direction.

NEW INCOME FLOOR FOR SOCIAL SECURITY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. STOKES. Mr. Speaker, I wish to draw attention to the little-known fact that some 27,000 Clevelanders and an estimated 2.8 million people nationwide, may miss out on a new Federal income supplement program, if they are not made aware of new, liberalized eligibility requirements.

The supplementary security income program—SSI—which will go into effect in January, can benefit thousands of people in my city who are either over 65, blind, or disabled. The AFL–CIO is to be commended for spearheading on national campaign to bring the news to the people who may not have heard, due to lack of publicity. AFL–CIO social security Director Bert Seidman has termed the program "a landmark in the history of American social legislation."

It sets a national income floor for per-

sons in those categories of over 65, blind, or disabled, who live on $130 a month—individually—or $195—for a couple. Because of exclusions of portions of earnings and other income, many persons with income above those levels will still qualify for supplementary payments.

Starting in January, 1974, the Federal Government will take over both the financing and operation of the now jointly financed Ohio and Federal social security program at the $130 and $195 income guarantee level.

Those already under the Ohio State program as of November 5, 1973, will be automatically covered come January. They do not have to submit a new application.

But because of the generally liberalized eligibility standards set by the Federal law, an estimated 27,000 Clevelanders not now under the State program can qualify.

I quote from the AFL–CIO news article:

The 65-year age requirement does not apply to persons who are either (1) blind, which is defined as having vision no greater than 20/200 with glasses in the better eye or (2) disabled, defined as unable to do any kind of substantial paid work because of a physical disability which can be expected to last at least 12 months or to end in death.

They must have incomes of less than $130 a month for single persons or $195 for couples. But excluded from calculating income are:

The first $65 a month of wages or self-employment income.

The first $20 a month of other income, a category which would include social security or pension benefits. Thus a person receiving a $100-a-month social security payment could exclude $20 of it and receive the difference between $80 and the federal guarantee of $130, plus any additional supplement that might be provided by his state.

While applicants may not have assets of more than $1,500, this limitation does not apply to a home and car of reasonable value, personal possessions and life insurance with a modest cash surrender value.

I have stocked my district office with two HEW pamphlets which further explain the new supplementary income: "Your Claim for Supplemental Income" and "Supplemental Income for Disabled, Blind and Aged."

It will still be possible to apply in January for January benefits, according to the Cleveland office of the Social Security Administration. But the sooner newly eligible people apply, the sooner they will benefit.

The Social Security Administration has 8 local offices in the Cleveland area: main office, 1240 East 9th Street, room 793; 50 Severence Circle—suite 300; 10645 Euclid Avenue; 1024 East 152d Street; 6405 Superior Avenue; 9333 Miles Avenue; 2012 West 25th Street—room 810; and 6315A Pearl Road, Parma Heights.

THERE MUST BE A BETTER WAY

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BAUMAN. Mr. Speaker, Thomas Jefferson had a healthy respect for the good commonsense of rural Americans, which I certainly share with him. An example of this commonsense is contained in a recent editorial from the Kent County News in my district which comments on the pitfalls of socialized medicine and Government interference in the medical profession. The editor of the News correctly concludes that a takeover from Washington of our health care is not the answer.

I insert, at this point, the editorial from the Kent County News:

A BETTER WAY

Americans are a notably independent people. Oddly, in all the discussions of programs proposing compulsory government health insurance, very little is said about just how the nation's doctors, a highly individualistic group of citizens, are to be harnesed to the will of government. An inkling of what could happen has been revealed in a survey of almost 100,000 physicians by the American Medical Association.

The survey finds, according to The New York Times, that, "A majority of American doctors are disgruntled at Federal health programs and one third would boycott a nationalized health system if it were set up. . ." The survey showed that more than 35 per cent of the doctors who responded said they would either refuse to practice in a nationalized health system or would leave the practice of medicine altogether if such a system were created.

Medical men, by tradition and training, are a dedicated group of individuals. Within our voluntary, pluralistic health care system, their sense of duty leads them into working man-killing schedules. Their devotion to the highest standards of medical skills and to the cause of healing the ill is legendary, but the notion that they would accept compulsion is presumptuous, to say the least. Why should a doctor, who has spent a good portion of his life and a veritable fortune acquiring the knowledge and the skills of his profession, be expected to bow to the dictates of government bureaus and bureaucrats? It just doesn't make sense. And that is why the shadow of nationalized medicine that has been held over doctors for so many years has been called an "Insidious Threat" to the quality of medical care.

There is a better way to assure continued medical progress and that is through programs, government or otherwise, that seek to build on the merits of the existing system—a system that has brought unparalleled advances in the medical arts.

THE REAL TRAGEDY OF WATERGATE

HON. FRED B. ROONEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. ROONEY of Pennsylvania. Mr. Speaker, for more than a year a seemingly endless chain of disclosures of illegal acts, dirty tricks, efforts to obstruct justice, abuse and misuse of campaign contributions, and much more involving men at the very highest levels of our National Government has slowly but surely eroded the confidence of many Americans in their Government.

They question not only the competence and integrity of leadership but they question, too, the apparent total disregard for law, order, and justice by so many who wielded ominous power and authority in elective and appointive offices.

I sincerely hope, Mr. Speaker, that none of us in the Congress will grow complacent or apathetic toward the need for totally independent investigation and vigorous prosecution of illegal acts involved in this whole sordid affair. Each one of us should not only be deeply concerned, we should be earnestly alarmed by the terrible impact events of the past several years are having upon our citizens.

At no time has this been made more apparent to me than in a letter I received recently from an elderly, retired gentleman, living on his social security income, agonizing over demands upon his own limited resources as well as the current state of morality and integrity among leaders of his Nation.

He wrote, in part:

I bought a used car about 1 year ago which the garage man told me the second time he worked on it, "get rid of it, it is a lemon." I had it out to (dealer's name omitted) who sold it to me and all they did was put a can of oil sealer in it while it was under guarantee.

I spent over $200 on this car before I ever had 300 miles on it, now it is rusting away like hell. My garage man told me about 3 months after I bought it that it needed a motor overhaul, cost $225 more.

(Dealer's name omitted) is in your district, Fogelsville, Pa. Now this is the stupid part of this letter. The way things are going on in this country, I feel like beating the hell out of him and then committing a lesser crime also. Could I get away with pleading guilty to the lesser crime and get the same sentence as Agnew?

I know this sounds silly but the way the country is going now, I am losing all my faith in our government

He goes on to urge prompt impeachment of the President and then adds this postscript:

I was honest all my life but now I am changing views. I know this is a stupid letter but bear with it and please answer it. I always had faith in you.

Mr. Speaker, we must be concerned about this very real crisis of confidence—a loss of confidence in our national leadership, a loss of confidence in the fair and impartial dispensing of justice in America, a loss of confidence in our political institutions.

In my view, we in Congress simply cannot afford to tolerate any longer the attitudes, the activities, and the actions which have brought our Nation to this sorry state.

COMPUTER PROGRAM UTILIZING TRAINING AND EDUCATION, INC.

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. KEMP. Mr. Speaker, I wish to bring to the attention of my colleagues the synopsis of a project which has been proposed for implementation in the Economic Development Administration's designated special impact area in Buffalo, N.Y. It is the brainchild of William Snyder, a well-known and respected Buf-

faloian, and the project would utilize the data processing industry to provide both training and employment to inner city residents.

If implemented, it would be a tremendous bolster to the tight job market which exists for unskilled and semiskilled labor in the S.I.A. area. I therefore welcome the opportunity to share the following synopsis with my colleagues:

SYNOPSIS

Title: Computer Program Utilizing Training and Education, Inc., "Com-Pute." Location: In S.I.A., City of Buffalo. Cost Estimate: $700,000. Description: This multipurpose business development/training program developed for and located within the Greater Minority Community of Buffalo, New York as designated by the boundaries of the Buffalo Model Cities Agency and the Erie County Special Impact Area, will have short range and long range goals to be accomplished in the following manner: Short Range Goals: Will provide immediate employment and training for 10–15 unskilled semiskilled and skilled persons who will form the nucleus of the joint venture staff. Long Range Goals: Will ultimately be developed into an Electronic Data Processing School providing continuing education for "disadvantaged" persons in data processing and related skill areas.

Another goal will be the establishment of a supportive service bureau to sustain the educational/training program, by developing and marketing data processing services and related skills in allied areas, on a multidimensional level in time-sharing to commercial accounts, governmental (city and county), and social service related agencies, i.e., hospitals, schools, CAP organizations, etc. Assistance is needed to accomplish the final program development, staff training, and organization of equipment and materials, etc. Status of Plans: Proposal has been developed in detail. Effect on Employment: (Initially) Ten to fifteen persons will staff the project, with additional persons being trained and employed each year. Federal Aid Requests: $200,000 in Technical Assistance Grants. $365,000 in Business Loan Authorization. (9/14/72).

The preliminary research to the development of "Com-Pute" was based upon the simple premise that what was obviously a vital ingredient in the daily function of various disciplines within a majority society, must be assumed critical in its absence from a minority society,

Initial investigation consisted of conferences with marketing personnel, sales management, and various technicians within the Data Processing Industry,

Conclusions were that the Data Processing represented a twenty-first century science, the potential of this science was unlimited, that the career and employment opportunities exceed the cadre of properly trained personnel, that the salary and wage scale in all categories are excellent, that advancement opportunities are limited only to individual motivation, that the minority employee representation is grossly disproportionate to the majority, and that the existing educational opportunities for direct job entry training are nearly non-existent outside the industry.

It was concluded that the dynamics of this industry must be brought into the Greater Minority Community of Buffalo, New York, on a level and scale beyond mere token introduction.

With the exception of a demonstration project conducted in Buffalo in 1968 by the International Business Machine Corp., in cooperation with the Buffalo Board of Human Relations, there lacked any major attempt to seriously address the needs of the Minority Community, with those of the Data Processing Industry.

The key factor in the success or failure of a project of this nature is in the degree of Community Cooperation necessary to insure the availability of all of the relative information needed to properly program the computer to render a complete finding.

Cooperation on this level demands a complete response from all segments and all public service and political sub-divisions, regardless of affiliations, bearing in mind that the proposed model development is addressed to the entire population, recognizing that even certain adverse effects on one segment can and usually does indirectly effect all segments of the populace.

"Com-Pute" believes that if all of the existing evidence of the decline and slow regression of the Buffalo Metropolitan area can be honestly dealt with, as already suggeted in the areas application for depressed area designation, then the project that "Com-Pute" hopes to render as a community service can not only succeed, but literally alter the course of the entire area.

In addition to the Market Feasibility study of the Metropolitan area to determine the immediate and long term business and labor Market demands in the area of data processing, computer program utilizing training and education inc., proposes to utilize our market research methodology, to conduct a program of broad research into the overall social/economic environments for the purpose of developing a computerized model city.

This computerized model would be constructed in three sub-divisions, comprised of those characteristics indigenous to a given sub-division where applicable, their respective inter-relationships, the characteristics common to the overall area, the common denominators and diagnosed effect on the area in both present and long term future.

The objective of this endeavor is two-fold. First its intention is to provide a supplement to the initial findings of the Greater Buffalo Development Foundations "Economic Prospects," attached to this proposal and secondly to hopefully provide a scientifically accurate prescription for the areas declining market that will be workable, and render an all out attack on the areas cronic unemployment, by properly identifying and focusing attention on those areas of the economy before they attain crisis status.

Aside from identifying future employment through computer projections, this project can serve as an ongoing strengthening factor to the entire metropolitan area. Additionally the model that is developed by "Com-Pute," can also be adjusted to meet the conditions of any other depressed area, once the basic model is determined and tested.

THE PRESERVATION OF PRIVACY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. RANGEL. Mr. Speaker, the highest governing body of the United Presbyterian Church, the General Assembly, met in May of this year for the 185th time. This body meets annually and is composed of representatives known as commissioners elected by the 166 presbyteries in all parts of the country. One half of the commissioners are ordained ministers and the other half are lay leaders of local churches known as ruling elders.

At the 185th General Assembly, the commissioners expressed their conviction that the right of privacy must be developed in American law at a pace commensurate with available technology and organizational practice. To help reach these ends they adopted guidelines for the preservation of privacy.

Privacy is a personal freedom that allows one to live without interference from others. With privacy one has the liberty to control what others may know about oneself. Privacy is the fundamental right to be left alone from harassment by others or to join with others without being watched. The possession of privacy is the ability to choose how and when information about oneself is collected and shared. Privacy is increasingly threatened by the great amount of computer stored information readily available on each individual in our society.

These guidelines of the 185th General Assembly of the United Presbyterian Church have no real meaning unless they are implemented. I now submit these guidelines for the attention of my colleagues with the hope that this legislative body will join with the United Presbyterian Church in seeking a way to safeguard this basic right:

GUIDELINES FOR THE PROTECTION OF PRIVACY

We call upon public and private agencies to provide for maximum protection of privacy in their dealings and transactions with each other and with individuals; and through self-regulation to meet at least these minimum guidelines for the collection, retention, and dissemination of personal data:

1. Determine beforehand whether the information to be gathered is necessary and relevant to the purpose for which it is sought, so as to minimize the amount of unduly personal, potentially injurious material that is collected and preserved.

2. Limit information systems to specific uses and justify the objectives, methods, and effects of any collection of personal data.

3. Give the subject prompt notice and ready access to such information. (We recognize that certain government agencies collect information on criminal activities where notice and access are controlled by established rules of law and procedure.)

4. Provide means for rapid correction of erroneous data, and the opportunity to expunge irrelevant or obsolete recorded data, such opportunity to be available to both the custodian and the subject of the data.

5. Provide effective safeguards to prevent accidental or unauthorized interception, input, or destruction of data.

6. Require effective safeguards for waiver of privacy and authorization of access to personal data executed by individuals and given to business, professional, and governmental bodies.

7. Limit the use and transfer of information in such systems, and monitor their expansion into enlarged data-sharing operations.

RECOMMENDED POLICIES AND PROCEDURES TO IMPLEMENT THE GUIDELINES FOR THE PROTECTION OF PRIVACY

1. In credit and insurance reports, we favor messages that provide for the subject to add new information, to expunge obsolete data, or to explain any item in the files, and review the pertinency on privacy grounds of all types of information collected.

2. In bank and credit records, we call for regulations that require access only by customer authorization, subpoena after customer notification and opportunity to challenge, or by search warrant with inventory of information taken.

3. In welfare reform, we emphasize the need to: (a) examine the privacy impact of proposals for using social security numbers of registrants or for disseminating information on recipients, and (b) restrict the re-

cording and storage of personal information which adversely affects the privacy of the welfare client while a person not on public assistance could refuse to make such information public.

4. In law enforcement, we call for procedures at all levels of government to: (a) routinely expunge records of arrest where there is no conviction, and of juvenile proceedings when the juvenile reaches the age of majority, except where the court is shown "probable cause" for preserving the record, and (b) require judicial approval and supervision of the use of informers who establish or maintain a relationship for the purpose of informing in civil or criminal investigations.

5. In educational institutions, we favor measures to: (a) provide the student access to his or her personal records kept by the school, which are routinely made accessible to others, (b) provide safeguards to ensure that only authorized persons who have legitimate justification shall have access to those records, and (c) where applicable provide for the requirements specified in 4 above.

6. Regarding domestic security, we favor action to: (a) prohibit any branch of the Department of Defense from engaging in surveillance of, or data collection on, domestic political activity and (b) require the destruction of all such political surveillance files accumulated by the military.

7. As regards domestic surveillance by civil law enforcement agencies, we commend the efforts of the Committee on Public Justice to stimulate legislation creating citizens' committees to oversee such activity; and we urge that legitimate surveillance be precisely defined by law, that surveillance be administered by personnel under court supervision, and that severe criminal penalties be established for illegal surveillance.

8. Regarding confidential relationships, we urge: (a) enactment of uniform state legislation and consistent federal legislation to establish guidelines that protect legitimate news professionals from being compelled to testify about their sources; (b) development of legal guidelines for limiting the use on privacy grounds of subpoenas and immunity provisions in the conduct of grand juries, and (c) review of current statutes.

9. For the violation of these rights, as defined in this section, we recommend provisions be made for recovery of actual and punitive damages and for injunctive relief for threatened violations.

RECOMMENDATION FOR A NATIONAL PRIVACY SERVICE OFFICE

We call for the formation of a National Privacy Service Office which will provide, in the manner of an *ombudsman*,* services to citizens whose privacy is threatened by activities of federal governmental, commercial, or research agencies, and who cannot otherwise obtain relief using the ordinary remedies available to them by law, business custom, or agency practice.

1. The ombudsman would be an adjunct of the United States Courts and be accountable to the independent administrative branch of the federal judiciary.

2. The ombudsman would receive and investigate complaints by citizens and associations whose privacy is alleged to be threatened by activities of governmental and nongovernmental entities identified above.

3. The ombudsman would, upon specific citizen or associational complaint and authorization to intercede, have power to compel disclosure of relevant records held by the agency or corporation, and in the case of a complaint directed against law enforcement officials conducting an ongoing criminal investigation, would be able to compel court examination of relevant documents.

4. When a complaint justifies intervention, the ombudsman would seek to resolve the dispute through mediation, public reporting, or recommendation of administrative or judicial action.

5. A Privacy Service Office (ombudsman) of a similar nature should be provided at the state level to investigate citizen or associational complaints of threat to privacy by state or local public agencies (including educational institutions) or by business enterprises that are not otherwise subject to federal supervision or regulation.

RECOMMENDATION TO CREATE AN INDEPENDENT REGULATORY BODY

We recommend the creation of an independent regulatory body with carefully defined authority to review, oversee, and approve the collection and dissemination of personal data by governmental bodies or agencies and by entities that collect and disseminate personal data for public and commercial purposes.

Despite the fears and deficiencies which seem inherent in regulatory administrative bodies, we feel that such a regulatory agency offers the hope of flexibility and expertise to meet the threat of dehumanization in an area of rapidly developing technology. Because existing regulatory bodies at the federal and most state levels could not objectively regulate themselves and other governmental agencies, we therefore recommend:

1. There be created at both the state and federal level autonomous regulatory bodies with the authority to supervise the collection, storage, and dissemination of personal data by governmental agencies or bodies and by entities that collect and disseminate personal data for public and commercial purposes.

2. The legislation creating the regulatory body should be so drawn as to ensure the autonomy of the agency from those it seeks to regulate, and to ensure the participation of groups sensitive to privacy needs.

3. The legislation creating the regulatory body should mandate the adoption of regulations that would require compliance with the applicable minimum guidelines for the right of privacy as set out in the guidelines on page 5.

4. The regulatory agency should not have access to data contained in the information systems, except by random selection of information not keyed to personal identity and then only when necessary to effectuate adequate controls and enforcement.

5. The regulatory agency, in protecting privacy, need not and must not impair the free exercise of religion, speech, press, assembly, or petition, and the legislation creating it should make clear that it has no powers of censorship, sponsorship, or influence over the activities of citizens or associations exercising those freedoms.

POLICY STATEMENT ON THE PRESERVATION OF PRIVACY

The ability to maintain one's own life space is basic to human existence in vital community. Lively private associations provide room for a process of maturation through personal risk, sheltered experiment, and free exploration of ideas and lifestyles.

From a Christian theological perspective, it is especially important to be reticent about demanding or exposing another's record, and to respect each person's unique context. Christian faith stresses the dignity of persons and groups living by grace in a fallen world. We rejoice in forgiving God who in his mercy can decide to forget the past and to open the future to his creatures. His liberating grace empowers us to care all the more for individual and social freedom.

Privacy is freedom from interference, opportunity to grow, liberty to control what others may know about oneself. Privacy is the right to be left alone or to join others without being watched, as well as the ability to choose how and when information about oneself is collected and shared.

Increasingly, personal and associational privacy is undermined by the indiscriminate use of electronic and large manual systems of information collection and interchange. This happens in the process of making credit checks, in some census procedures, and in the misuse of other personal questionnaires. We find also that government agencies, at their own discretion and in secret, are obtaining access to bank accounts and other commercial records. Furthermore, the United States Army has violated privacy in the name of internal security by developing millions of dossiers on the personal and political activities of innocent civilians, including public officials who have been doing nothing more than exercising their guaranteed constitutional rights.

Meanwhile individuals and organizations being searched or watched have no effective access to the files that profile their activities, opinions, and beliefs.

If, as the 1972 General Conference of The United Methodist Church warned, such developments "are signs that the society which is democratic in theory and structure is becoming increasingly repressive in policy and practice," then it is imperative for citizens to reassert their liberty. In the effort to protect our privacy we should be concerned not only with the behavior of government agencies. Comprehensive information on many citizens is also gathered by and available to private investigatory agencies, credit bureaus, and business organizations, which profit from the sale of personal data.

The right of privacy is implied, though not explicitly stated, in the Constitution of the United States. Its authors did not anticipate systems of microfilm, magnetic tape, data searches, centralized processing, time sharing, remote access, control programs, electronic eavesdropping. Apparently the Founding Fathers assumed privacy to be a natural foundation for other rights that were threatened in their time: freedom of expression and association, privilege against self-incrimination, due process of law, and freedom from unreasonable or warrantless search and seizure.

Today, in the light of our theological and legal heritage, privacy must be safeguarded more specifically. This right needs to be developed in American law at a pace commensurate with the potential invasions of privacy made possible by changing technology and organizational practice. Nothing less than the quality of freedom is at stake in the effort to preserve areas of personal and associational privacy.

* *Ombudsman*: one who investigates reported complaints, reports findings, and helps to achieve equitable settlements.

EXPLANATION ON VOTE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Ms. HOLTZMAN. Mr. Speaker, I would like to explain my absence for the vote on House Resolution 687, the rule providing for consideration of H.R. 11104, the public debt limit increase bill.

On November 7 when the vote on this rule was taken I was in a Judiciary Committee meeting reviewing materials in connection with that committee's confirmation of GERALD FORD. The bells do not ring in the committee room.

Had I been present for the vote, I would have voted "nay" since this rule did not permit consideration of a prompt social security increase or of tax reform. We should have considered these matters and approved them.

It is urgent that the Congress make our tax laws fairer and provide additional social security benefits for our senior citizens who are struggling desperately under our present inflation.

It is unfortunate that the attempt to defeat the rule lost by a substantial margin. Congress cannot bury its head in the sand on these problems much longer.

THE NEED TO EXAMINE ABORTION PROPOSALS

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BEARD. Mr. Speaker, for millions of Americans the aftermath of the January 22 Supreme Court decision on abortion has been a distressing and difficult fact. Many believe that the Court's nullification of virtually all State and Federal laws on abortion and guarantee of an absolute right to abortion for any woman during the first trimester of pregnancy is wrong. As with other controversial rulings, the abortion decision has left opponents of abortion with a total sense of helplessness to cope with something they feel tantamount to murder.

No issue generates more emotion than abortion. No subject is more volatile than the discussion of abortion. No major issue has received less attention in the way of congressional consideration than abortion. In the past, most Members have felt that abortion should be left to the discretion of the States themselves and until January 22, such a position was entirely viable. But, with the interpretation by the Supreme Court, antiabortionist now believe that the only remaining remedy available to correct the situation is the route of amending the constitution or possibly removing court jurisdiction over the issue.

Despite the furor that has been raised across the country, Congress has so far decided not to inquire into the various ramifications of this historic decision. The appropriate standing committee in the House, to hear bills seeking to modify the court ruling has demonstrated an obvious reluctance toward formal consideration of the several proposals now outstanding. In fact, the Subcommittee on Civil Rights and Constitutional Rights of the Committee on Judiciary has formally rejected a motion to conduct public hearings on abortion. It is true that the House Judiciary has several extremely pressing items which have absorbed the full attention of the committee.

An alternative to normal legislative procedure has been offered by my distinguished colleague, Mr. HOGAN of Maryland—a discharge petition. Mr. HOGAN has filed such a petition to relieve the Judiciary Committee from jurisdiction over his proposed constitutional amendment, House joint resolution (H.J. Res. 261). Mr. HOGAN must be congratulated for the leadership he has shown in this matter. I, myself, have felt the need to resort to such an extreme measure when I filed discharge petition No. 1, to discharge the committee from consideration of an antibusing constitutional amendment. From time to time such extreme measures are necessary when a small group attempts to thwart the Congress from working its will through deliberate action. However, several factors must first be considered. First, as I can well attest a discharge petition is a long and arduous procedure. Also, because the process that would bring the constitutional amendment to the floor prevents consideration of other remedial approaches that have been suggested, this course should be used only as a last resort. Second, unlike proposed busing amendments, Mr. HOGAN's proposal has not received an indepth examination of its long range implications by any body of the Congress. Under the rules debate time and opportunities for amendment are extremely limited when a bill is discharged. The fear then, is that unless adequate groundwork for an amendment is laid, Congress may overlook some of the problems that could develop from the language of the proposal, thus, opening a new avenue for opposition.

Moreover, many Members believe that the constitutional amendment is not necessary. It is reasonable to contend that Congress may and should correct the court's decision through simple legislation. Mr. DENHOLM of South Dakota, has proposed in his bill, H.R. 7752 that we define the word "person" to include "any animate combination of viable human cells capable of becoming or being an actual independent living human—singular or plural—entity."

Mr. FROEHLICH, of Wisconsin, has suggested another approach in his bill, H.R. 8682 wherein he states that Congress should exercise the power the Constitution has given in section 5 of the 14th amendment to limit the scope of that amendment in relation to abortion. His proposal provides: Nothing in the 14th article of the amendment to the Constitution of the United States shall be construed to bar any State from exercising power to regulate or prohibit practice of abortion except that no State may prohibit an abortion that is necessary to save the life of a pregnant woman.

Many Members are supporting constitutional amendments.

Mr. HOGAN's amendment, House Joint Resolution 261 provides, in part:

> Neither the United States nor any State shall deprive any human being from the moment of conception of life without due process of law; nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.

Senator BUCKLEY, of New York, has proposed an amendment, Senate Joint Resolution 119, which follows in part:

> With respect to the right to life, the word person, as used in this article and in the 5th and 14th Articles of the amendment to the Constitution of the United States, applies to all human beings, including the unborn offspring at every stage of their biological development, irrespective of age, health, function, or condition of dependency.

Mr. WHITEHURST, of Virginia, has introduced an amendment, House Joint Resolution 426, as follows:

> Nothing in this Constitution shall bar any state or territory or the District of Columbia, with regard to any area over which it has jurisdiction, from allowing, regulating, or prohibiting the practice of abortion.

Recently, yet another proposal has been offered to address the problem of Judiciary Committee inaction on abortion: the creation of a special committee. I believe that, if the standing committee gives no indication of ability or inclination to act on the various proposals referred to it, then, we should perhaps establish such a select committee. The approach has been jointly offered by my colleagues, Mr. FROEHLICH, Mr. KEATING and Mr. RONCALLO of New York. The resolution, House Resolution 585, would create a select committee to study the impact and ramifications of the Supreme Court's decision on abortion. Mr. FROEHLICH has introduced this resolution because of the imperative need for Congress to hold hearings on the transcendant issue of public policy that flow from the Supreme Court's unprecedented decision last January.

All these proposals deserve consideration. Yet, no action can occur until leadership of the appropriate House and Senate committees decide to take action.

Until hearings are held to examine the best way to handle the question, many people throughout the country will feel that they have no voice here in Washington; that their very legitimate concerns are not being heard, and worse, that for them, there is no representation. Of these, I feel that the latter is most devastating. Too many Americans have become resigned to the belief that their small voices will not be heard and that their views are not being represented. This body should be responsive. It should investigate the implications of the policy decisions established by its sister, the judicial branch, especially in the supercharged case of abortion. I hope and pray that Congress accepts this responsibility and will do so without further delay.

THE LATE HONORABLE ROBERT EWING THOMASON

HON. JOHN J. ROONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, November 12, 1973

Mr. ROONEY of New York. Mr. Speaker, the recent passing of my good and longtime friend, Judge Robert Ewing Thomason of El Paso, Tex., is a great loss to me personally as well as to the other Members of this body who knew him during his long tenure in the House.

Ewing Thomason was an extraordinary man who applied his great and varied talents to the service of his city, State, and country in a variety of important and difficult posts. He served the city of El Paso as a State representative and later as its mayor. While in the State legislature he served as Speaker of the Texas House of Representatives and in 1930 he was elected to serve in this body as a Representative from Texas. He served eight terms here before President Truman in 1947 appointed him as a

Federal judge for the western district of Texas.

Mr. Speaker, it was my distinct pleasure and honor to have served with and to have learned much from Ewing when I first came to this distinguished body for I served under him on the former House Military Affairs Committee. His leadership as vice chairman during the war years was truly outstanding for he personally coauthored all of the major legislation necessary for the successful pursuit of the war and ultimate victory.

His contributions to his country continued after leaving the House as he became one of the most respected and revered judges in the Federal judicial system.

Mr. Speaker, I am sure that the memory of Judge Ewing Thomason will be cherished by all those who knew him and that my sense of personal loss is shared by many both in this Chamber and out.

To Mrs. Thomason and the Thomason family I extend the ROONEY's deepest sympathy and prayers in this time of great loss and bereavement.

BROWNSVILLE SOLDIERS RECEIVE ANOTHER PAYMENT TOWARD JUSTICE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HAWKINS. Mr. Speaker, the passage of H.R. 9474 today by the House brings near to completion the rendering of justice—after 67 long years—to those of the survivors of the Brownsville incident of August 13, 1906.

When this bill is accepted by the Senate and signed into law by the President, it will by no means do all that should be done to compensate the 167 black Brownsville soldiers who have been suffering so much along with their families, from the false charges that were brought against them and from the denial of their rights to due process to be heard in their own defense.

The bill provides $25,000 for any veteran who was dishonorably discharged from the U.S. Army as the result of the Brownsville incident, and $10,000 for any unremarried widow of any veteran upon application made to the Administrator of Veterans' Affairs.

When President Theodore Roosevelt decided without any pretense of a trial that they were guilty and when they were drummed out of the Army that they had so faithfully served in the Cuban and Philippines campaigns, their names were written in near indelible disgrace in the annals of our Nation. Our action today changes all that.

After having this matter called to my attention through John D. Weaver's book "The Brownsville Raid: The Story of America's Black Dreyfus Affair," W. W. Norton and Co.—hardback and paperback—1970, I began efforts to right this wrong. Fortunately, the Secretary of the Army, Mr. Robert Froehlke, soon issued an order changing the discharges of the 167 men from "without honor" to "honorable." Then, joined by Senator HUMPHREY and Congressman FRASER, with the invaluable aid of Senator HARTKE, I introduced legislation that was designed to provide relief. The fruition of that effort is the provisions of the present act.

I think that the passage of this legislation shows clearly that justice can be done—at least in substantial measure—in spite of the passage of time and changing of events. The correction of this historical wrong is strongly to the credit of the Congress and of the Government of the Nation. And if we have set a little precedent, it has been that justice might be done.

SIXTY YEARS OF THE INCOME TAX

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. GAYDOS. Mr. Speaker, certain national publications have taken note among their reports on the monumental news developments of recent weeks that this autumn season happens to mark the 60th birthday of the Federal income tax on American individuals.

In their anniversary stories, the publications dutifully record that the present levy is the third income tax in our history, that the previous two were withdrawn after congressional and court battles, and that the predictions made for the present one by its advocates back in 1913 were pitifully inaccurate.

The Wall Street Journal recalls, for example, the "outrage" of Senator William E. Borah, of Idaho, at suggestions that the tax rate might climb "as high as 20 percent," a caveat sounded by the tax foes of that era. The Journal adds:

> Who, he (Borah) asked, could impose such socialistic, confiscatory rates? Only Congress. And how could Congress—the representatives of the people—be so lacking in fairness, justice and patriotism?

Senator Borah, obviously, was a naive and trusting man. If around today, he would have his answer. Where the 1913 levy hit, in a very slight way, one out of every 271 Americans, today's levy is paid by approximately a third of our people. Collections in the first year of application amounted to about $35 million. Last year's total reached $94 billion.

Thus, on this anniversary, we can look back over the years and see how fooled were those original income taxers and, also, how this levy, so innocently imposed as a "soak the rich" measure, has become a matter affecting the lives of all of us, and a burden unprecedented in size and consequence.

But more significant, perhaps, is the realization now of what this tax has meant in the shaping of events of the last six decades. I might ask, Mr. Speaker, if our entrance into World War I, and the major role we came to play in its windup, would have been possible has our "jungoists" of that era been faced with the problem of finding the means of financing it? The new income tax was their ready instrument. And its rates were lifted to provide the money needed.

What, if we had kept out of that conflict and let the European powers, exhausted and their armies locked in their trenches, negotiate by necessity a mutually equitable peace? The chances are that Europe would have achieved a stable way of life instead of the subsequent turmoil, that World War II would not have occurred, and that we would have escaped the age of depression and wars which has been our lot.

The income tax—the easiest kind for Government to collect—can be largely blamed for our international misadventures and, indirectly, those of much of the world. Could we have done all the damaging things we did if it had been necessary to induce our people to accept special taxes to pay for them? Of course not. But the ready income tax, so easy to adjust upwards, allowed free rein to our adventures. Imagine, if you can, the American people willingly coming up with the money to be tossed away all over the world in the foreign aid programs? Or to finance that miserable war in Vietnam?

The income tax and the 1943 decision by Congress to withhold it at its source have been the underlying forces in much that we have done as a nation since 1913. They have created the big government evil which many now recognize and fear that nothing can be done about. They have wasted our people's resources and lessened their own freedoms and initiatives. They have threatened this country with the socialism which Senator Borah in 1913 thought too impossible to contemplate.

What, then, on this tax anniversary, should be our resolve? To get rid of it? This is an unreasonable thought now. It could not be done without collapsing both the Government and the economy generally. Reduce its rates? Commendable as may be the idea, even this would be dangerous without great care and adjustment to say nothing of a full willingness to cut Federal spending deeply. The fact is that we are the captives of the tax and no longer its masters, a situation which Senator Borah and his income levy associates of 1913 could not have foreseen, faithful as they were to a belief that future Congresses would be moderate.

But there is one thing, Mr. Speaker, on which we can make up our minds today. We can determine that, hard as is this tax now on our people, we will never agree to make it worse. We hear much talk these days of increasing taxes for one reason or another. The Nixon administration has become adept at running up trial balloons on the subject. Federal policymakers and bureaucrats discuss tax boosts as pancreas for most every problem they face. Well, on this 60th anniversary of the income levy, let us give them notice that the limit has been reached, that under no circumstances, save for the survival of the Nation itself, will we vote to take more from the earnings of Americans.

IN THANKSGIVING OUR NATION SALUTES THE PILGRIMAGE TO OUR NATION'S CAPITAL OF THE CATHOLIC DIOCESE OF PATERSON, N.J.

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. ROE. Mr. Speaker. As we prepare for this year's Thanksgiving holiday, it is my honor and privilege to call to the attention of your and our colleagues a recent pilgrimage to the National Shrine of the Immaculate Conception which, in my judgment, serves as an inspiration to all of us in recalling the historic pilgrimage that memorializes Thanksgiving Day as a national day of remembrance in America and leaves no doubt that the faith, courage, and perseverance inherent in the original settlers of our land is still infused in the hearts and minds of the families of today's society where man's religious beliefs and aspirations tend to seem obscured by the modern and so-called sophisticated world of time and space.

On Saturday, September 15, over 2,100 members of the Catholic Diocese of Paterson, N.J., participated in a pilgrimage to our Nation's Capital under the leadership of the Most Reverend Bishop Lawrence B. Casey, who was the principal celebrant of Mass at the National Shrine of the Immaculate Conception assisted by 26 prelates and priests as cocelebrants.

Prior to the celebration of this Mass, prayers and mass were offered in the many chapels of the National Shrine where people of all national heritages including the Irish, Germans, Polish, Lithuanian, Ukranian, Slovak, Croatian, Hungarian, Ruthenian, Czechoslavakian, and Italian, have contributed to the beauty and magnificence of this architecturally well-designed edifice of national and international renown. The Knights of Columbus look proudly to the great tower which was erected by their generosity.

The Most Reverend Bishop Casey appointed Father John J. Demkovich, pastor of St. Mary's Roman Catholic Slovak Church of Passaic, N.J., as coordinator of this pilgrimage and praised the young zealous priest for the "outstanding job" he performed.

The pilgrimage was reported in many publications throughout the diocese of Paterson and, Mr. Speaker, I respectfully request permission to insert at this point in our historic journal of Congress the following report published in the September 1973 issue of "Children's Friend" (Priatel Dietok), junior publication of New Jersey's highly prestigious Slovak news publication, Slovak Catholic Sokol (Falcon) of Passaic, N.J., by its most distinguished editor, the Honorable John C. Sciranka, who also participated in the pilgrimage:

NATIONAL SHRINE OF IMMACULATE CONCEPTION IN WASHINGTON, D.C., IS A PRIDE OF AMERICAN CATHOLICS

On Saturday, September 15, 1973 the Paterson, N.J., Diocese held its Pilgrimage to the National Shrine of the Immaculate Conception in Washington, D.C. The Most Rev. Lawrence B. Casey, Bishop of Paterson Diocese, who led the pilgrimage, appointed Father John J. Demkovich, pastor of St. Mary's Roman Catholic Slovak Church of Passaic, N.J., as coordinator of the pilgrimage. Many of our Sokols and Sokolky, including our Editor, took part in this large pilgrimage and paid a special tribute to the Mother of Sorrows, patroness of Slovakia in a beautiful Slovak Chapel, which was also visited by Bishop Casey and Msgr. John J. Murphy, new Director of the Shrine. Prayers were recited in unison in Slovak and a popular Marian Slovak hymn "Pred vekmi zvolená Pani Anjelská" was sung, led by our editor.

The Slovaks of Washington presented a beautiful basket of red roses before the statue of Pieta, which attracted many visitors and they paused—to say a prayer. It was the feast of the Sorrowful Mother, when the tenth anniversary of the dedication of the Slovak Institute of SS. Cyril and Methodius was celebrated in Rome, with some 50 American Slovak leaders in attendance, headed by the Most Rev. Andrew G. Grutka, Bishop of Gary, Indiana and Msgr. Joseph S. Altany, honorary President of the Slovak Catholic Federation of America.

The National Shrine of the Immaculate Conception is the largest Catholic church in the United States and the seventh largest church in the world. The Shrine is impressive chiefly because of its beauty. While massive and majestic, still with its slender Tower and perfectly poised Dome, it is graceful.

Built as were medieval cathedrals, without any steel skeleton, or framework, the Shrine is fashioned entirely of stone, brick, tile and concrete. Its construction was a blending of ancient technique and modern devices; a blending of Byzantine, Romanesque and contemporary styles. With its strong classical influence, the Shrine harmonizes perfectly with the other architectural landmarks of the city of Washington. The Shrine is built in the form of a Latin cross. Its peaked roof covers six of the seven interior domes.

On the outside walls of the Shrine there are many separate pieces of sculpture, a permanent museum of some of the best work of great American artists. A special committee of artists, theologians, and scripture scholars arranged the sculpture, symbols and quotations so that they are accurate and fixed in meaningful patterns.

One of the glorious facts about the Shrine is that it has been made possible by all the Catholic people of the United States. Under the inspiration and guidance of their bishops, the Catholic people in every diocese in the United States have contributed to the erection of the Shrine. The Shrine has been built through "small" donations. Every bishop, every diocese, all the priests, religious, faithful of the country, have made sacrifices for the Shrine. The Shrine is truly national. It truly speaks of the love of all the American Catholics for Mary.

Besides the beautiful Slovak Chapel of the Mother of Sorrows, patroness of Slovakia, donated by the Jednota Slovak fraternal organization, on the exterior of the Shrine among the many statues, are also statues of SS. Cyril and Methodius, next to St. Patrick and St. Boniface, donated by the Slovak Catholic Federation of America.

And in the crypt you will find on the wall the inscription of our Slovak Catholic Sokol organization.

Make, therefore, a special effort to visit this National Shrine and also the beautiful Slovak Chapel and you will have the most pleasant memories for the lifetime.

Mr. Speaker, I appreciate the opportunity to present this statement to you and know you will want to join with me now in extending our heartiest congratulations and best wishes to the Most Reverend Bishop Casey and all of the priests and members of the Diocese of Paterson who participated in this pilgrimage on their standards of excellence and the exemplary contribution they are making to the quality of the way of life in our community, State, and Nation. May we take a moment of silent prayer in thanksgiving to them and all of our people throughout America.

CRIME CONTROL NO. 9

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. LANDGREBE. Mr. Speaker, it is one of the paradoxes of liberalism that it simultaneously professes fear of governmental power and advocates the increase of governmental power. To give an example, many liberals are considering impeachment of the President and simultaneously urging that the President be granted extraordinary powers to deal with the most recent crisis.

One might be led to conclude that liberalism is schizophrenic, but such a conclusion would be inaccurate: Liberal opposition to the growth of government is pure rhetoric, as illustrated by the liberal position on gun control. What the liberals fear is privately owned guns—not guns owned by the Government. The liberal position on privately owned guns is entirely consistent with the liberal position on all private property: there shouldn't be any; all property should be controlled, regulated, or confiscated by the omnipotent state. The liberals have no objection to guns—only to guns they do not control. They are seeking a legal monopoly on guns—at this point handguns—in order to eliminate any final opposition to a socialist government. This is the purpose of the gun control lobby—not the reduction of crime, which could easily be achieved by harsher penalties for criminals—but the elimination of citizen opposition to their socialist plans.

When those citizens who own guns awaken to the fact that their guns are the target of the expropriators for the same reason that all their property is the target of the statists, then private gun ownership will be defended as it should be defended—as the right to private property. And when private gun owners understand that their guns have been singled out for confiscation because private ownership of guns constitutes the only remaining effective check against an unconstitutional and dictatorial usurpation of power, then they will understand the motive of the gun control lobbyists. It was Chairman Mao Tse-tung who said, "Power flows out of the barrel of a gun." The liberals, as much as I, accept that proposition as true.

It is because they wish to see a concentration of power in government that they advocate confiscation of guns; it is because I oppose concentration of power in government that I oppose the gun control lobby.

GET OFF HIS BACK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. DERWINSKI. Mr. Speaker, Mrs. Lyn Daunoras, one of my most outstanding constituents and the feature editor of the Brookfield-Summit Valley Times, has a regular widely read column, "Lyn's Lines," which has made her a well-respected columnist in the Chicago and suburban press.

In her column of November 7, Lyn discusses the public furor surrounding the President's actions. I think that the Members will benefit from Lyn's emphatic point of view.

The article follows:

GET OFF HIS BACK!

(By Lyn Daunoras)

The best part about being an independent voter is that you can view both sides of a controversy somewhat objectively and not get as heated and excited as a partisan follower.

As the great hue and cry arose to "impeach Nixon," we were reminded of the morbid crowd that gathers when a man stands precariously on a ledge in a suicide threat. There are some who callously egg him on to jump and some who shrug the tragic scene off as not concerning them.

Diehard Republicans took their stand behind the president and many independents and Democrats were out for his scalp, particularly those who had voted Republican for the first time and now felt frustrated by what they considered an outright betrayal of their trust.

In that weekend of firings and resignations, we felt for the first time some genuine anger and certainly disappointment and shock, but it all fell short of impeachment.

Take the arguments: "The president refused to give up the tapes." Not knowing what the tapes contained, outsiders could hardly judge whether or not they would indeed be a blow to national security as Nixon deemed. You don't impeach a man for using his judgment in such a decision.

"The president placed himself above the law by refusing to give up the tapes to Judge Sirica after it was ruled he must do so." Not really. He did not refuse to give them up, he proposed an alternative by asking that a senator go over them instead of the judge. You don't impeach a man for coming up with a substitute plan, particularly when he had five days in which to comply with the ruling.

Further, two Watergate commitee members, including the chairman, had approved the alternative. Archibald Cox did not. But was it up to Mr. Cox to disapprove? Wouldn't it be up to Judge Sirica to decide whether the alternative was acceptable to the court since it was his original compromise?

To top it off, Cox held a press conference in which he blasted the president's proposal, an action nobody has questioned, but we do. What executive, of country or company, would not fire a subordinate who openly criticized his boss without at least awaiting the official ruling of his idea? The most that can be said is that the president reneged on his promise to give Cox complete independence, but you don't impeach a man for breaking his promise (if we did, public officials would be impeached every day!)

His attitude about the press may be paranoiac but, in spite of his petulance, it is to some extent justifiable. He entered the room smiling and cordial and was greeted with frozen masks. Some of the questions were sarcastic and from unquestionably hostile, rather than objective, reporters.

But the measure of a man is how he withstands disapproval. While saying that "the tougher it gets, the cooler I get," he proceeded to blow that cool after uttering some statements that were unwise and unbecoming . . . but human. We never knew that the press was beyond reproach. Still, you don't impeach a man for his opinion of the news media.

It has gone out of control on every side with the newspapers and TV commentators, stung by the criticism, showing their "fairness and understanding" by now demanding resignation rather than impeachment (probably realizing that chances of impeachment are slim) and dragging public opinion with them.

A lame duck president in these turbulent times is not an attractive prospect, but it just might help if everyone got off his back and remembered that one year ago today he won the biggest mandate ever received by any man. Critics provide the pressure, then wonder if he "can take it."

What has happened is that the news media, not hysterical at the time he said but hysterical since then, and all the current multi-investigations have so affected the voters that they no longer trust any public official. America is in an ugly mood with the whole country a massive hanging jury, ready to pronounce guilt before all the facts and evidence are in.

It is this kind of atmosphere that allows a radical group to run for office under the guise of "reform," present programs that sound good to the beaten ears of the voter, weary of controversy, and take over the reins of a promised "new government."

Only there would be no room for impeachment . . . and no freedom to suggest resignation . . . under that new government.

CHILD ABUSE AND NEGLECT

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. MOAKLEY. Mr. Speaker, I am pleased that the Select Subcommittee on Education has recently held hearings on legislation that could have a significant impact on the well-being of our children. Although there have been efforts on the local level to deal with the problem of child abuse, a national commitment has been lacking. The legislation which the subcommittee is considering represents a concerted effort by Congress to coordinate programs to identify, prevent, and treat the problem.

I am a cosponsor of H.R. 6379, the Child Development and Abuse Prevention Act, one of the bills being considered. One of my colleagues from Massachusetts, MIKE HARRINGTON, is cosponsor of a comparable bill. He is recognized as a leader in the House in the area of children's legislation, and I would, therefore, like to insert into the CONGRESSIONAL RECORD a copy of his statement submitted to the subcommittee concerning child abuse.

STATEMENT BY THE HONORABLE MICHAEL J. HARRINGTON BEFORE THE SELECT SUBCOMMITTEE ON EDUCATION OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR IN SUPPORT OF CHILD ABUSE AND NEGLECT LEGISLATION

Mr. Chairman. Thank you for the opportunity to present my views on legislation to provide financial assistance for identification, prevention, and treatment relating to child abuse.

I think we all realize that our nation's future depends on the well-being of our children. Many of them, however, are faced with situations in their childhood restricting, or even precluding their development into what we usually regard as full maturity. Too many are poor, too many are malnourished, too many have physical and emotional problems, and too many cannot read. There are many factors which we recognize as contributing to these deficiencies. Although we usually cite economic and biological factors, there are others that must not be overlooked.

Child abuse is one such factor that has been with us a long time, but one which has received minimal effort to alleviate nationally. Although programs exist at state and local levels, most lack adequate funding and few provide followup and treatment once a case of child abuse has been reported. Further, HEW, which does not have even one employee working on the problem of child abuse full time, has admitted that it has no information about the effectiveness of state programs that receive funds under Title IV-B of the Social Security Act for such purposes.

I need not cite statistics, for they are either lacking or grossly inflated. Too often, we only hear about abuse when it has resulted in severe injury or death. One statistic I would like to cite, however, is that 90 percent of the parents involved can be rehabilitated, according to the American Academy of Pediatrics and others who recently testified before a Senate Subcommittee. Although much abuse is caused by psychotic or mentally ill adults, most cases are committed by frustrated parents who take their problems out on their children.

Mr. Chairman, it seems to me that our effort here must be to define the issues and prescribe remedial legislation which would fund programs to provide therapy to those parents who constitute this 90 percent. I am a cosponsor of H.R. 6483 (identical to H.R. 5914, the National Child Abuse Prevention Act), which seeks to accomplish this. The Subcommittee is considering several comparable bills and I wish to play no favorites. I only urge that this Subcommittee report a comprehensive bill that makes a realistic attempt to alleviate one of the many problems facing our future leaders.

COMMENDING YOUNG REPUBLICAN NATIONAL FEDERATION'S PLATFORM, 1973

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 7, 1973

Mr. ROUSSELOT. Mr. Speaker, I should like to commend to all of our colleagues a forthright statement of political principles—the Young Republican National Federation platform for 1973.

These young men and women can be proud of this declaration of ideals and expression of faith in America. I hope that the elder leaders of our party have as much confidence in the basic principle of individual freedom as these young leaders have so amply demonstrated. I, for one, look forward to the time when some of the members of the executive committee of the Young Republican National Federation will assume their leadership rolls in our party, and in our Na-

tional Government, because, on the basis of the pronouncements they have made in their 1973 platform, I feel that they have a valuable contribution to make.

I was especially happy, Mr. Speaker, to see that the Young Republicans believe, as I do, that we should maintain a strong national defense and that we should work to preserve a constitutional free-market economy. To that end, they recommend that—

First, the fiat money of today should be replaced by an inflation-free dollar backed by gold;

Second, taxes should be reduced through the abolition of the practice of withholding taxes;

Third, the personal graduated income tax should be abolished; and

Fourth, we must move toward reduction of our national debt. A first step should be the selling of those Government-owned businesses that are unconstitutionally run in direct competition with other free enterprise businesses. In itself this would net our Government $65 billion and mean a 14-percent decrease in that debt.

The above points were taken from the 1973 Young Republican National Federation platform.

If these steps were taken, Mr. Speaker, I sincerely believe that the United States would be a far stronger and freer Nation. A few years from now, under the leadership of these dedicated young men and women, I am sure this will come to pass.

TO SAVE FUEL WE MUST SAVE MASS TRANSIT FARES

HON. BELLA S. ABZUG

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Ms. ABZUG. Mr. Speaker, today I have introduced the Emergency Mass Transportation Fuel Conservation Act (H.R. 11478). This legislation will place a ceiling on mass transit fares throughout the Nation for the duration of the fuel shortage.

Increased public use of mass transportation is essential to effective fuel conservation. However, as fuel costs increase it is likely that public and private mass transportation agencies will be hard pressed to maintain their current fares. We must take care to remember that as mass transportation fares increase public and private mass transit ridership decreases.

I find it ironic that President Nixon should appeal to the American people and Congress to take action on the fuel shortages we face without adequately addressing himself to the needs of mass transit. The two problem areas are intimately related. If we are to save fuel, we must take steps to prevent further decline in the use of mass transit facilities. If we allow fares to skyrocket, as is being threatened in New York City and elsewhere, additional people will use automobiles, defeating attempts to save fuel, and at the same time, increasing pollution levels.

In order to encourage people to make use of mass transportation and to prevent declines in mass transit ridership during the period of possible fuel shortages, the Emergency Mass Transportation Fuel Conservation Act will prohibit fare increases in the Nation's mass transit systems, both publicly and privately owned, because "increased public use of mass transportation is essential to effective fuel conservation."

The legislation requires the Federal Government to provide mass transit systems with enough funds to make up any operating deficits incurred because of the fare ceiling and increased costs. H.R. 11478 would also mandate an allocation system to insure that mass transit systems receive fuel on a priority basis.

I urge my colleagues to give this measure their most careful attention, and I particularly recommend it to members of the Committee on Interstate and Foreign Commerce as they consider emergency legislation regarding the fuel situation:

The text of the bill follows:

H.R. 11478

A bill to authorize and direct the President to develop and implement certain federally sponsored incentives relating to mass transportation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Emergency Mass Transportation Fuel Conservation Act".

SEC. 2. The Congress hereby determines that—

(1) shortages of crude oil, residual fuel oil, and refined petroleum products caused by inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand, now exist;

(2) such shortages have created or will create severe economic dislocations and hardships, including loss of jobs, closing of factories and businesses, reduction of crop plantings and harvesting, and curtailment of vital public services, including the transportation of food and other essential goods;

(3) such hardships and dislocations jeopardize the normal flow of commerce and constitute a critical national energy crisis which is a threat to the public health, safety, and welfare and can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(4) increased public use of mass transportation is essential to effective fuel conservation; and

(5) public and private mass transportation ridership decreases as mass transportation fares increase.

SEC. 3. Upon enactment of this Act the President shall develop and implement Federally sponsored incentives for the use of mass transportation, including—

(1) a prohibition on the increase of any fare for any public or private mass transportation system;

(2) Federal subsidies for additional expenses incurred due to increased services;

(3) priority rationing of fuel for mass transportation; and

(4) Federal subsidies for State and local public bodies and agencies and private mass transportation operating agencies to provide for the inability by any such body or agency to meet operating expenses incurred as a result of paragraphs (1), (2), and (3) of this section.

SEC. 4. For purposes of this Act, paragraph (3) of subsection (e) of section 142 of title 23, United States Code, is amended by striking out the period at the end of the paragraph and inserting in lieu thereof: "except that, with respect to the purchase of buses and rolling stock for fixed rail, the Federal share shall be 80 per centum."

SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

ROBERT THOMASON, 94, FORMER U.S. CONGRESSMAN, OF TEXAS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. TEAGUE of Texas. Mr. Speaker, the November 11, 1973 Washington Star-News carried an article about the death of former U.S. Congressman Robert Thomason. Mr. Thomason finished out his years in Congress to become a Federal judge during my freshman year. I hope that each Member of Congress will take a moment to read the article in memory of a fine man who had an outstanding political career in various positions of government.

The article follows:

ROBERT THOMASON, 94, WAS FEDERAL JUDGE

Retired U.S. District Judge Robert Ewing Thomason, 94, who also was a former Texas congressman, died Friday in El Paso. He had been ill for three months.

During a political career that spanned 60 years, Judge Thomason served as a Texas legislator, mayor of El Paso, U.S. Congressman and judge.

He was elected to the House of Representatives in 1931 and became the ranking member of the Military Affairs Committee in 1935.

President Harry S. Truman appointed him U.S. District judge for the Western District of Texas in 1947. He retired as a full-time judge in 1963 but occasionally heard cases until a few years ago.

In 1955, Judge Thomason declared that segregation in Texas schools was unconstitutional. It was the first such decision by a federal judge after the 1954 Supreme Court decision outlawing racial segregation in schools.

He was born in Shelbyville, Tenn., and received a B.S. degree from Southwestern University in Georgetown, Tex., in 1898. He received a law degree from the University of Texas in 1920 and first practiced law in Gainesville, Tex., where he served as district attorney from 1902 to 1906.

He moved to El Paso in 1912. Four years later he was elected to the Texas House of Representatives, where he served as speaker from 1919 to 1920. In 1920, he lost a bid for the governor's office.

He was mayor of El Paso from 1927 until his election to the House in 1931.

A SALUTE TO THE LATE LOU WILKE

HON. CLEM ROGERS McSPADDEN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. McSPADDEN. Mr. Speaker, on October 22, 1973, an event occurred in

Bartlesville, Okla., which I believe needs national recognition. One of twelve men who were inducted into the Oklahoma Athletic Hall of Fame was the late Lou Wilke. No one served amateur athletics in general and basketball in particular better than did the late Lou Wilke.

During the depression years Mr. Wilke coached basketball at Phillips University, Enid, Okla., and later became a marketing executive for Phillips Petroleum Co., Bartlesville, Okla. As coach of the legendary Phillips Oilers Basketball team, he chalked up an unbelievable won-lost record of 98 wins against only 8 losses.

In 1948, Lou Wilke was named chairman of the U.S. Basketball Committee. In addition to twice being president of the AAU, Lou Wilke was a champion for athletics, a leader and a molder of men.

I join his countless friends, both in Oklahoma and over the Nation who knew him and respected him, in this great tribute.

IN DEFENSE OF NIXON

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. DICKINSON. Mr. Speaker, if one makes the mistake of only reading Washington newspapers and listening to biased newscasters on the three major networks, he gets the impression that President Nixon has virtually no support and that most of the Nation favors his immediate impeachment and/or removal from office. I suppose it is natural for the national media to put the President in an unfavorable light at every opportunity since they so vigorously opposed his reelection last November.

Fortunately, Mr. Speaker, the American people have learned to see through biased reporting. I think this is the case today and that more and more Americans support their President than the national radio and television networks and newspapers care to admit.

A good friend of mine, Mr. Terry Everett, publishes two weekly newspapers—the Enterpriser and Daleville Today—in Enterprise and Daleville, Ala., respectively. On October 31, 1973, Mr. Everett ran front page editorials entitled "In Defense of Nixon" which I believe correctly expresses the sentiments of millions of Americans.

I am including that editorial and the letters in response to the editorial with my comments to help my colleagues in the Congress understand the thinking of "grass roots" America:

IN DEFENSE OF NIXON

(By Terry Everett)

Last week was somewhat of a disappointing week for me. The events of the last several weeks led me to take what may be an unpopular stand with many of my friends . . . that of defending the President of the United States.

Perhaps the firing of Archibald Cox was the straw that broke the camel's back for many of my friends. It was for my brother, who called me and angrily wished he didn't have to listen to any more Watergate, Cox, Richardson, etc.

Later in the evening a friend approached me with the same general feelings. "I stuck with Nixon until this thing with Cox," he said. I pointed out I had thought Cox a poor choice to begin with and wasn't sorry to see him go. My friend used my words to prove his point. "If you say Nixon made a mistake to hire Cox, it still works out that he made a mistake," he said.

Which makes him human like the rest of us, I thought to myself.

I have resented for some time the treatment of the President by the national news media. Television is such an over-powering medium and too many people accept for gospel whatever newscasters such as Dan Rather happens to be saying at the moment. That Mr. Rather should be accepted at face value disturbs me as much as the mistakes of the Nixon Administration.

I believe it was Howard K. Smith, who about five years ago, wrote a scorching indictment of the hatred held by many newscasters toward Richard Nixon. The article was lengthy and went into detail to describe how these national newscasters went out of their way to make Richard Nixon look bad. The article was, to say the least, eye-opening. And the feelings of the news media haven't changed.

To give a few small examples: Dan Rather several weeks ago in one of CBS' panel discussions went on for several minutes on why Nixon should turn over the Watergate tapes. Rather allowed as how no one in the United States would be allowed to withhold information wanted by a court and certainly the President shouldn't be allowed on the grounds of privileged information. One member of the panel corrected Rather and pointed out there was such a thing as privileged information and that it was common between a lawyer and his client, a priest and his parishioners, a wife and her husband and newsmen have been talking about privileged information ever since I can remember.

Not much damage done? That's hardly the point. Either Rather didn't know what any high school student knew, or, he had got carried away in his efforts to make the President look bad. If Rather truly didn't know . . . then he shouldn't be a newscaster. If he did indeed know (and I must suspect he did since CBS has raised such cane over protection of their news sources—privileged information), then how many other slight alterations of simple facts is Rather guilty of in an effort to make the President look bad. For that matter, how many alterations of facts is CBS, NBC and ABC guilty of?

Take if you will still another example which occurred Monday morning of this week. On the CBS morning news (if you want to call it a news show), Presidential speechwriter Patrick Buchanan allowed as how he felt that every effort should be made to break up the monopoly held by the three major networks. Now Buchanan, by my count, made it "perfectly clear" on two separate occasions that was HIS opinion and not that of the White House and/or the President. Later in the day on my car radio came the startling discovery by ABC . . ."White House Launches New Threats to The Media!"

Now I ask you . . . how in the world do you explain such things?

The examples are small, but the point remains: The national television networks will and do distort facts to fit their purposes. There are many other cases but space simply won't allow the room. As a matter of fact, there are several books either on the market or coming with just such a subject.

Often Nixon is made to look bad simply by who the networks choose to give air time to. Why in the world would a network give air time to kooks (one I can think of with the morals of an alley cat. Nope, most alley cats I've seen have better morals) who want to call the President of the United States a murderer? That bogs my mind. To give air time to someone calling President Nixon, who in case anyone has forgotten ended the Vietnam war, a murderer is ridiculous.

Here the President was . . . pressured on the one side by those who wanted to take a couple of A-bombs and just blow the place off the map . . . on the other side by those who wanted to completely give in at even the expense of our POW's . . . and in the middle by those of us who just wanted out the quickest way possible without losing too much face.

Well, the President got us out and as far as I can determine, did it in such a way that it is no longer a subject of national concern. Now to put some nut (or enemy) on television to call Nixon a murderer is impossible for me to understand. If Nixon is a murderer, then so are Washington, Lincoln, Grant, Hoover, Roosevelt, Truman, Eisenhower, Kennedy and Johnson. If Nixon is a murderer, then so is every American fighting man who ever fired a shot at an enemy in defense of America. The American fighting man has always been made up and will always be made of Middle America. Mainly, because there are so many of us. Now what you don't hear is the networks giving air time to someone calling Middle America murderers. That's because the networks are smart enough to realize that Middle America still runs the country (and also works for and spends most of the money that makes it possible for the networks to sell those $250,000 a minute television commercials). Oh, they'll let someone get a shot at Middle America every so often or at the so-called "establishment" (I have never understood that word). But, by and large the networks realize the only way to control Middle America is by proper programming . . . allowing us to hear and see what they want us to hear and see and when they want us to see and hear it.

Still another case of who gets air time. Senators Ted Kennedy and Edmund Muskie have had a good deal of criticism for the President and every time Mr. Kennedy and Mr. Muskie want to open their mouths to impart their latest anti-Nixon feelings, the networks are right there to gobble it up. Now that has got to be a laugh. Here's Mr. Muskie, who broke down during the primaries (not the ballgame, friend, the tryouts) and here is Mr. Kennedy, who disappeared for seven (or was it 12?) hours after a midnight drive across a bridge which ended in the tragic death of a young woman, criticizing the President for his mistakes.

Come on, Mr. Rather, where were you when we really needed you?

I don't bring up Mr. Muskie's or Mr. Kennedy's personal tragedies to belittle either of them . . . only to make a point. Can you imagine how long either of them would have been able to function as President of the United States under the pressure Richard Nixon has been under during the last year?

Many of us feel we have had our hands burned by sticking with Ted Agnew and now hesitate to give the same support to the President.

It was easy with Mr. Agnew . . . he was supposedly removed of any wrongdoings and clear of Watergate . . . that made the choice easy. We could have our cake and eat it. The choice is no longer easy and many of us are having to think twice about something we shouldn't have to even think once about. The networks realize this and that's the way they like it.

We know from past experiences we'll get more letters disagreeing with this editorial than supporting it. Such is nearly always the case as most people who agree won't write a letter to the editor while those who are upset by what we've had to say will let us know. That's as it should be . . . or is it? Is it instead time to not take the easy way out . . . time to take a stand . . . time to say

if we're going to have honesty in government, let's also have it from the networks and other news media.

After all, there's been a standing committee in Congress for over three years wanting to impeach Nixon for one thing or the other. The only problem is that in this time, they still haven't found anything to impeach Nixon for.

It has been frustrating.

Another thing's frustrating, too. This morning I vowed not to turn on my television set for a full month. Then I happened to think . . . Monday night football. Oh, well. Given a choice, I'll take Howard Cosell's mouth to Dan Rather's any time.

LETTERS

ENTERPRISE, ALA.

Letter to the EDITOR:

I am happy to see that someone other than my wife and a few friends share my views regarding the obviously slanted and irresponsible news broadcasting being presented by the three major television networks. I read your editorial "In Defense of Nixon" and I would like to say that I am in complete agreement with you and would like to see you continue with a series of editorials on this subject.

I feel that the people need to be informed as to how they are being programmed by these irresponsible giants of the news media.

I applaud your courage and support your effort.

Respectfully yours,

GERALD W. WILCOX, A.I.A.

DALEVILLE, ALA.

Letter to the EDITOR:

Several days ago I saw something in the Enterpriser I appreciated very much. It was from an intelligent person who "Keeps Up". I wish more people would come out for our President publicly so that we people who don't read very much could better understand the situation. Several weeks ago I took a poll of downtown businessmen. Each one is backing our President. Then I had the nerve to write to the President. I told him about the poll and said in my letter we don't like you—we love you.

In less than two weeks I had a letter of thanks and appreciation. Of course his secretary typed it but it was the President's signature. One more thing. I dare Congressman Dickinson to go back on our President. If he does, I will never vote for him again.

CAROL THOMPSON.

ENTERPRISE, ALA.

Letter to the EDITOR:

As stated in your editorial of Oct. 13, 1973, "In Defense of Nixon" people usually do not respond unless they disagree or are angry. This response is in complete and total agreement with this article. I write to you in hopes that it will give you moral support to continue honest and objective reporting.

I am 71 years of age and have seen many trends in politics. Whether or not the news media is aware of the fact that their slanted, biased and deliberate dishonesty in reporting the news has done more to undermine our present system of Government than all the totalitarian governments have done during the entire history of this nation is very debatable. Surely the network's motives should be questioned.

It would be naive to expect any completely, totally honest and God-fearing person to ever achieve high public office. Therefore, I do not bestow any Sainthood upon Mr. Nixon, but if you compare him with the Muskies; the McGoverns; the Humphreys; the Philip Harts and two-thirds of the Watergate panel, you would have to put a halo upon his head. Also Mr. A. Cox and his staff of Kennedyites have shown their real true colors "leaking innuendos, half truths, and deliberate lies to the press". This deliberately being broadcast daily by the networks with full knowledge that a half truth is more deceitful than a whole lie.

I am aware that your efforts and mine toward changing the left-wing, liberal trend in this system (whatever their motive) is comparable to dipping the ocean dry with a two quart bucket. You have my complete support.

Your editorial was refreshing, please continue.

Yours truly,

RAYMOND HAYES.

DALEVILLE, ALA.

Letter to the EDITOR:

Your editorial in The Enterpriser needs to be read by everyone but I suspect that few will read it all—and carefully. I do agree with you, and further, I suggest that there is only one answer that will counteract the gross injustice of baised reporting.

There is no way to stop me and you, the reader and listener, from searching out several sources of information. Choose these from the full range of opinion from the ultra-liberal to the ultra-conservative. I read columnists and editorials daily from 3 to 5 newspapers, 2 weekly news magazines and several monthly publications. The T.V. screen is the least influence and least reliable for me of any—because I know most of the T.V. Newsmen's slanted opinions before they start to give it. I rely on the sum total of what I read, then form a solid, factual background for my analysis. Any American voter must dig everywhere he can to get the big picture—so that he or she will be well informed on the major issues—as well as the local school board and the local Town Council!

Let's put wings to our prayers for peace by supporting President Nixon (and Sec. of State, Kissinger) the rest of his term of office, tackle domestic problems—and see if we can do something constructive instead of destructive.

Sincerely,

CLYDE W. JONES.

P.S. I forgot to mention that the School, Church, and Public Libraries all get some of my reading time and we need to instill the inquiring mind—the desire for knowledge in our students and/or our children so that they too will be well informed. I am a life member of P.T.A., Member of the Clayhatchee Council, Tennis instructor, Shop Steward IAM Local 2003 and have a family of 7 children and 8 grandchildren.

DALEVILLE, ALA.

Letter to the EDITOR:

Thank you for your fine editorial "In Defense of Nixon," October 31, 1973, in The Enterpriser. I believe that there are a lot of people who voted for President Nixon who believe in him, but who have not come forward and voiced their beliefs. One of our freedoms in the United States is "Innocent until proven guilty." How ironic, the newscasters of television have helped, with their biased reporting, to slant people's views of the President. These newscasters, in fact, have judged and accused him. They have the powerful people of the United States "running scared."

I don't feel the people have suffered great humiliation as members of Congress, fellow Republicans calling for impeachment, are telling them. President Nixon has done an outstanding job in office, standing up under tremendous strain and extreme pressure. Have his accusers, particularly those who voted for him, thought how they would stand up to such ridicule, under extreme, adverse pressure if known friends suddenly turned against them?

A woman I talked to at the library tonight said, "Yes, I voted for Nixon. But he's gone too far. He knew those tapes were missing three months ago. He's been lying!" After talking further with her, she said, "Yes, I voted for him, but it was because I didn't want McGovern as President." She was never really a believer.

Julie Nixon Eisenhower was interviewed by Barbara Walters on NBC last Friday morning. She said words to this effect: Don't you think that Judge Sirica will get the best qualified people in the United States to go over the tapes to see if they have been tampered with and as to the missing tapes, don't you think that the Presidential log will be checked as to telephone calls, times, visitors, etc. Experts will be called in.

Believers of freedom, truth, and what's right in our United States know that freedom will prevail and truth will prevail. Should President Nixon be guilty, he will be proven so.

Do people sincerely feel that President Nixon has really hurt the United States since he has been in office? He stopped the Vietnam War; he brought back our prisoners of war; we're on speaking terms with Red China and, although that might not sound so good to some people, it could prevent or deter a possible war; and as President Nixon mentioned on TV last week, because he knows Russia's Brezhnev as well as he does and Brezhnev knows him equally well, possible confrontation between our two nations was averted over the Mid-East crisis. Nonbelievers should think many times before joining the cries for impeachment.

If people believe that President Nixon is innocent of any wrong-doing, they should write to him and write to their newspapers, and tell them so. They should give President Nixon their support. Let him know that the silent majority is no longer silent! Although it's late, it may not be too late! Give him more courage!

Thank you again, Terry, and if you don't mind, I plan to send your editorial, in fact the whole newspaper, to President Nixon along with a copy of my letter to you.

Sincerely,

ANNE GATLIN.

A DISPLAY OF CAPITAL ELITISM

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. CRANE. Mr. Speaker, there is a significant difference between what most Americans are thinking and what some of those who describe them say they are thinking. Often, attitudes which are frequently reported are simply those attitudes which a small number of people have decided are "acceptable."

Such individuals have appointed themselves to be spokesmen for the rest of us. How wrong they can be was shown in the results of the 1972 election. The majority of self-appointed interpreters of public opinion supported the candidacy of Senator GEORGE MCGOVERN. The people, of course, did something far different.

A recent example of such a self-appointed reporter of the attitudes of the American people was the performance of Washington hostess Barbara Howar on the Johnny Carson television show.

At that time, reports Chicago Tribune columnist Bob Wiedrich, a man well known for his fairness and objectivity, Mrs. Howar presumed to become a

spokeswoman for all 200 million Americans, telling them exactly what they were feeling and thinking about the President of the United States with the authority of someone who had a firm grip on the pulse of the Nation.

Mr. Wiedrich concluded that:

In her pseudo-sophisticated circles, it is highly doubtful that Barbara hears what the working stiffs of Washington are saying or what the better than 50 per cent black population of that town think about Nixon. Or, for that matter what people think in Chicago . . . Yet, Barbara presumes to speak for us all. And Carson furnishes her the forum. Sometimes, we think, President Nixon does have a point.

I wish to share with my colleagues the column by Bob Wiedrich, "Another Display of Capital Elitism," as it appeared in the Chicago Tribune of November 14, 1973, and insert it into the RECORD at this time:

ANOTHER DISPLAY OF CAPITAL ELITISM

(By Bob Wiedrich)

There is a strange, sometimes incurable malaise that often infects folks who move to Washington.

It is called Potomac Fever and tends to restrict the victim's vision to that relatively small plot of real estate from whence are conducted the nation's affairs.

In several cases, sufferers have been known to freak out, completely losing their sense of proportion. They come to believe that the District of Columbia is, in fact, the whole of the United States and that that vast hinterland somewhere way out there is populated by faceless no-accounts to whom the inhabitants of their tiny enclave owe no allegiance.

In many ways, it is the ultimate in snobbery. Yet, it is a quite provincial view. According to diagnosticians, the disease is difficult to avoid. There is no immunization except common sense.

Once contracted, it quickly attacks any perspective of what goes on elsewhere in the land. For the germ that causes Potomac Fever breeds rapidly in close proximity to the base of national power, especially when permitted to rub shoulders daily with the great decision makers of our time.

The other night, approximately 500,000 American TV viewers received a clinical demonstration of the ravages of Potomac Fever on a 38-year-old blonde who has not only rubbed shoulders with the mighty, but publicly admits having shared a U.S. senator's sack during an idyllic Jamaican interlude in her youth.

Since you can't get much closer to the seat of power than that, those watching the Johnny Carson Tonight Show undoubtedly were willing to accept former Washington hostess Barbara Howar's credentials as a self-appointed spokeswoman for the Capital jet set.

But bouncy Barbara went a giant step farther than that. She presumed to become a spokeswoman for all 200 million Americans, telling them exactly what they were feeling and thinking about the President of the United States with the authority of someone who had a firm grip on the pulse of the nation.

For some 10 minutes, this neatly coiffed member of the Washington Over-the-Hill gang assailed Richard M. Nixon as tho he was some common criminal already indicted and convicted of high crimes of treason. With no restraints on her venom, she repeatedly demanded his impeachment or resignation.

That was what the American people wanted, she suggested, continually relying on unnamed "people" in Washington as her authority.

"There's a feeling in Washington . . ." Or "People in Washington feel . . ." Or "People in Washington are saying . . ." Or variations of that same labored anonymous litany.

To Mrs. Howar, it was obvious there was no place else in the United States but Washington. Surely, the nation would founder without the thought processes of the Washington cocktail set to guide it. No one else was capable of reaching an independent judgment. Only Washington could furnish a reasoned, dispassionate decision on the successes or failures of Richard M. Nixon. And that judgment, of course, had already been made.

However, had any of the estimated 500,000 people who watch the Tonight Show examined Mrs. Howar's credentials more closely they might have realized they were being victimized by a pint-sized put-on.

In the first place, this blond babe is trying to peddle her published memoirs as a one-time society hostess and senatorial helpmate. Secondly, her fading reputation as a swinging jet-setter is badly in need of refurbishing after earlier successes during the John F. Kennedy and Lyndon B. Johnson regimes.

Barbara doesn't get to scoot about town with Pat Nixon and Julie Eisenhower as she did with Lady Bird and Lucy Bird and Lynda Bird.

And further, the Georgetown society crowd with which she hangs around are the same professional Nixon haters who still can't forgive the President for accomplishing things Jack Kennedy couldn't do. They are virtually a government in exile and hardly speak for Washington, much less the rest of the land.

In her pseudo-sophisticated circles, it is highly doubtful Barbara hears what the working stiffs of Washington are saying or what the better than 50 per cent black population of that town think about Nixon. Or, for that matter, what people think in Chicago. For when she ventures into the hinterland, she doles out her interviews at the Ambassador East Hotel, hardly a spa of the common man.

Yet, Barbara presumes to speak for us all. And Carson furnishes her the forum. Sometimes, we think, President Nixon does have a point.

WHY THE PRESIDENT SHOULD RESIGN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. RANGEL. Mr. Speaker, last Tuesday, I introduced House Resolution 684 calling upon President Nixon to resign. At the time of the introduction of this resolution, and subsequently before this body I have explained my reasons for calling for this drastic act. I can put these reasons no more forcefully or eloquently than to quote Bayard Rustin, the great leader and philosopher in the movement for human rights:

The President no longer has the ability to govern effectively, nor the moral legitimacy to guide the course of the nation.

Mr. Rustin's column in the New York Voice of November 9, 1973, sets forth in measured, reasoned terms the reasons why the President must resign to restore credibility to his high office. I place Mr. Rustin's column in the RECORD for the attention of my colleagues:

NIXON SHOULD RESIGN

The most distressing thing about the governmental crisis which has engulfed America is that the President does not seem to recognize that a crisis in fact exists. Instead of facing the issues involved, he obscures them, projecting himself as the victim of a malicious press and questioning the motives of Special Prosecutor Cox. He persists in the policy of concealment and subterfuge that has marked the Administration's response ever since the time, many months ago, when Nixon supporters dismissed the Watergate break-in as a "caper." Neither the President's actions nor his words suggest an awareness that withholding potential evidence from a criminal prosecution represents a blatant disregard of basic democratic and constitutional principles.

The Constitution demands that the President "take care that the laws be faithfully executed." This is an absolute responsibility, but subject to individual whim. And yet the President has chosen to ignore this responsibility, submitting neither to its spirit or letter until forced to bend by the bipartisan outrage of the nation.

RULE OF LAW

This is particularly unsettling for blacks, since our civil liberties depend above all else on the President's determination to enforce the law, regardless of his political philosophy. Although opposed to the 1954 Brown decision, President Eisenhower ordered federal troops into Little Rock when Governor Faubus defied court desegregation directives. Had he placed his natural impulse above the obligation to ensure that the law is carried out, Eisenhower would have set back the civil rights movement for years to come, while destroying the federal system of government.

By surrendering the tapes to Judge Sirica, the President has done little to allay the worst fears of Americans. There are still unanswered questions, and the President has made it abundantly clear that, short of another judicial confrontation, he will not provide the answers. These questions suggest broad implications about the functioning of democracy. The ITT case, for example, calls to question whether national policy was being formulated on the basis of law, or was determined by the promises of campaign contributions. Then there are the questions about the President's land transactions and other personal financial dealings; whether the President was taking advantage of high office for personal enrichment.

To prejudge these cases before the proper officials have examined all the facts would do an unconscionable injustice to the President and to our system of law. The dilemma facing Americans is that the President will not cooperate with a full and impartial investigation, thus thwarting the only means of removing the cloud of suspicion which hovers over his office. As the AFL–CIO, said, in calling for the President's resignation: "When the President appears fearful of facing a Supreme Court composed in large measure of his own appointees, the public can scarcely resist the darkest speculations."

The crisis which the President has brought upon himself and the nation has multiplied and deepened our problems. Our domestic policy can be summed up in one word: "veto." Our foreign policy is suffering at a time it can least afford to suffer.

I do not contemplate the possibility of the President's resigning or his impeachment with any feeling of elation. Nor do I call for his removal from office because of political differences, profound as they may be.

CANNOT GOVERN EFFECTIVELY

The fact is, however, that the President no longer has the ability to govern effectively, nor the moral legitimacy to guide the course of the nation.

The only principled alternative left is for him to resign, and spare the country a protracted, agonizing period when we would be, I fear, without a leader. And if Nixon fails to resign. I feel it is incumbent on the Congress to initiate impeachment proceedings. Should the President ultimately leave office,

Congress would be then well advised to consider the appointment of a bipartisan government, with the two major parties sharing the presidency and vice presidency, as has been proposed by Sen. Inouye of Hawaii.

I believe that the resignation of Richard Nixon would serve the genuine interest of the United States, for this country cannot absorb the almost daily crises which the President seems incapable of averting. As I write this, the White House has announced that the two most important tapes never existed; already there is speculation over whether this part of the President's efforts to cover-up wrong-doing. Because of the pattern he has established, every move the President makes evokes suspicion and cynicism. We cannot endure this for three more years.

Lyndon Johnson was elected President in 1964 with a mandate in all respects as decisive as that Nixon received in last year's election. Four years later, having compiled a record of unprecedented domestic accomplishment, Johnson declined to seek reelection, not because of any impropriety on his part, but because he was convinced that to do so was in the best interests of national unity and world peace. If Lyndon Johnson, under the attack of a small tough high vocal minority, was capable of an act of high statesmanship, it is not presumptuous to expect Richard Nixon, having lost the confidence of the overwhelming majority of Americans, to take the same difficult step.

HON. GERALD R. FORD ADDRESSES NATIONAL ASSOCIATION OF REALTORS

HON. CARLETON J. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. KING. Mr. Speaker, on Tuesday, November 13, 1973, the Honorable GERALD R. FORD, minority leader of the House and Vice-President-Designate, spoke at the opening session of the National Association of Realtors 66th annual convention at the Sheraton Park Hotel in Washington, D.C.

Because I sincerely believe the Vice-President-designate's address will be of interest to all my colleagues, I am inserting his remarks in the CONGRESSIONAL RECORD.

In these days of charges and accusations, of innuendos and hearsay, I fully agree with Representative FORD that it is time we look at the record. I think it is time the American people gave a little thought to the competency and leadership of the man who brought the Vietnam war to an honorable conclusion, who thawed and opened the diplomatic doors of peace to China and Russia, who brilliantly avoided a confrontation with Russia in the current Mideast crisis. It is time they began to judge the President objectively and honestly on the basis of his stewardship as Chief Executive of the United States.

In my opinion, Vice-President-Designate FORD has properly and articulately illustrated what a strong, able and courageous leader we have in President Nixon. Representative FORD has urged the National Association of Realtors to join with him in affirming their confidence and support for the President of the United States for the sake of a stronger and more unified Nation.

Vice-President-Designate FORD's remarks are as follows:

REMARKS BY VICE-PRESIDENT-DESIGNATE GERALD R. FORD BEFORE THE NATIONAL ASSOCIATION OF REALTORS CONVENTION, SHERATON PARK HOTEL, WASHINGTON, D.C., TUESDAY, NOVEMBER 13, 1973

It is a pleasure for me to be here this morning taking part in the opening session of the NAR's 66th annual convention. I am not just here for myself, however. President Nixon has asked me to extend his greetings and best wishes to those of you who are here for this event today, and to all the 500,000 men and women who have made the NAR the largest American trade association representing a single industry.

As realtors you represent a vital part of our national economy, and I am proud to say that although it still has its share of problems, the American economy is in great shape today and growing stronger every minute.

So much has been happening lately—both good and bad—that some vital national statistics have been lost in the shuffle. During the month of October, while most eyes were understandably turned toward Watergate, the Middle East or the energy crisis, the American economy quietly achieved President Nixon's target figure for reduced unemployment. That overall figure is now down to 4.5 per cent and the unemployment rate for adult males is the lowest it has even been in America during peacetime. At the same time, last month we had the second consecutive monthly drop in wholesale prices.

This is not spectacular news because it isn't shocking or depressing. It is just plain good news. And it is persuasive evidence that, despite some very serious obstacles, the Nixon Administration is making solid progress in delivering what it promised the American people last November—an era of genuine prosperity—prosperity in peacetime.

Hard as it may be for us to realize it now, this may be the big story of the past few months when historians look back on them in the years to come—the story of how a beleaguered Administration, with the support of the people and the backing of responsible Democrats and Republicans in the Congress, succeeded in bringing new prosperity to America and new hope for peace in the world in spite of political turmoil at home.

Even without Watergate, that success story would be dramatic. With Watergate, it is little short of miraculous. But it has been achieved.

In spite of Watergate, the President's diplomatic initiatives have succeeded in making a fresh beginning for peace in the Middle East. For the first time in a generation, Arabs and Israelis have both expressed a willingness to sit down and discuss their differences. For the first time since the birth of the state of Israel, there is hope that the legacy of hatred and violence can be set aside—that reasonable negotiation can replace bloody confrontation in this troubled part of the world.

No other American President—no other world leader, for that matter—was ever able to achieve this. Richard Nixon, the man that some people have referred to as a crippled President, *has* achieved it.

That's quite a track record for a cripple. It reminds me of a speech that was made in the Canadian Senate and House of Commons in 1941 by a very distinguished visitor—a man named Winston Churchill. In his speech, Churchill described the situation in Europe after the fall of France, when England stood alone against the combined forces of the Axis powers.

When Churchill had warned the French that Britain would fight on alone whatever they did, the French generals had advised their government that, "In three weeks England will have her neck wrung like a chicken."

"Some chicken," Churchill reflected, "some neck."

Today we hear a lot of voices that sound very much like those defeated and defeatist French generals and politicians. We are told that President Nixon is a paralyzed prisoner, incapable of acting. Some suggest that he should resign or be impeached.

I see it a different way. I look at Richard Nixon's record on building a healthy peacetime economy; on working to achieve peace in Southeast Asia and the Middle East; on giving this Nation a comprehensive program for meeting the energy challenge—I look at all this and my answer to the critics is simple

Some prisoner; some paralysis.

If Richard Nixon can achieve all that he has for this country in the last few weeks as a "cripple" then he is the best argument this Nation ever had for hiring the handicapped.

That doesn't mean that we don't have a real problem of public confidence on our hands.

It is real, it is big and it isn't going to go away overnight if we simply ignore it.

But it is not invincible. There is no credibility problem in the world too big for the truth to overcome. And with the release to the court of the tapes, and with the testimony that will be heard in the days ahead, that is what we are going to get—the truth. I am convinced that once the full truth is known, President Nixon will be exonerated.

Unfortunately, there always some people so eager to reach a verdict that they don't bother to wait for evidence.

For some of them, nothing—not even the truth—will make any difference. They have made up their minds, and even the facts will not change them. But such people are only a small minority.

I believe that a majority of Americans, and a majority of the men and women on both sides of the aisle in the Congress, are going to come out of this Watergate ordeal with their confidence raised and their trust restored—not only in the President, but in the American political system as well.

As realtors, you have seen the same process take place in another sphere. You know how emotional speculation can drive the price of land or buildings up and down over the short term. But you also know that, in the long run, the real market value—the honest worth of the property—will make itself felt once the hysteria has ceased and people have the full facts at their disposal.

The same thing is true of government. There are and always will be periods of crisis when emotion, even hysteria, get the upper hand. But, in a free, informed society, good sense wins out in the end—good sense and fair play.

The difference between a politician and a statesman, according to an old saying, is that the politician thinks about the next election but the statesman thinks about the next generation.

Those who are looking to the next generation, and who have a sense of history, know that, given the facts and due deliberation, cooler, fairer heads will prevail. They know that what might seem like an easy shortcut today—a quick escape from temporary annoyances—could actually inflict deep, permanent scars on the American political system. And let us never forget that those scars would be borne by the next generation of Americans.

I have faith that the courts will get to the bottom of this case. I have faith that the President will act with honor and integrity in the performance of his duty, and above all, as one who has spent a quarter of a century as a Member of the United States Con-

gress, I have faith in the Congress—faith that it, too, will not be panicked into unwise action or dominated by a few shrill, extreme voices.

But the biggest single factor in all of this is not any one of the three branches of government I have just mentioned. It is you, the people of this great country of ours.

Through the entire Watergate ordeal, most of the people have reacted with quiet patience, waiting for the full story to unfold Their aim has been to judge fairly from the facts.

Most, but not all. There are a number of pressure groups that have always been opposed to the Nixon Administration and to the programs that it has pursued, despite the fact that those programs were overwhelmingly endorsed by the American people last November.

These opponents have been very busy in the last few weeks. Newspaper ads calling for impeachment or resignation and urging letter-writing campaigns to the Congress have abounded and Congressional offices have been bombarded with letters and telegrams. One member of the Senate, Bill Scott of Virginia, recently ran a spot check of the mountain of mail he had received calling for the ouster of the President and he found that most of the people who were so loudly making this demand today had voted against Richard Nixon last November. They were trying to use Watergate as a weapon to reverse an election they didn't agree with and didn't win.

Meanwhile, the famous "silent majority" has been living up to its name.

I hope that each of you, when you return home from this great gathering, will take the time to express your personal view to your Senators and Congressmen. If you really believe that impeachment or resignation is the only answer, by all means say so. But if you are part of that much larger group that believes in fair play and in the important things that Richard Nixon has done and can do for America, don't wait for someone else to do it for you. Speak up and speak now. You deserve to be heard.

Not only that, but your representatives deserve to hear from you. They must hear from both sides on this vital national question.

While you are doing that, I promise you that I will be doing everything I can at my end to see that a spirit of candor, fair play and conciliation prevails between the Capitol, the courts and the White House.

Together, I am convinced that we can emerge from this painful experience as a strong, united people, with a renewed faith in our President and our political system.

OUR NATION SALUTES THE CITY OF PASSAIC, STATE OF NEW JERSEY, ON ITS CENTENNIAL CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. ROE. Mr. Speaker, during 1973 the city of Passaic of my Eighth Congressional District, State of New Jersey is observing the 100th centennial anniversary of its birth as a city incorporated under the laws of the New Jersey State legislature. It is indeed an historic event in our State and Nation's history and I ask you and my colleagues here in the Congress to join with me in observance of this centennial with a special salute to the Honorable Gerald Goldman, the distinguished mayor of Passaic, and to the honorable Emil Olszowy, an esteemed member of the governing body and the general chairman of the Passaic Centennial Committee, extending our best wishes to the citizens and governing officials of one of the most industrialized urban communities in America, which is my singular great honor to represent here in the Congress.

The city of Passaic is steeped in the history of the early settlers of our country and as we celebrate this 100-year milestone of its existence as a city incorporated under the laws of New Jersey, we can look back with awe and respect for the spirit and achievements of its people in meeting the great challenges of the 19th and 20th centuries in urban America. Comprised of 3.26 square miles, located 12 miles west of New York City along the Passaic River, in the heart of the northeastern metropolitan region of our country, it has experienced the enormous growing pains of the occupation of people and the massive development that has occurred since man first started harnessing its technology and scientific knowhow in industry for the production of goods and the building of America's leadership position and preeminence in international marketplaces throughout the world. Many historians relate the story of Passaic as the birthplace of television with its principal industries, in addition to televison, enumerated as rubber materials, cables, plastics, clothing, food, aircraft components, machinery, and research.

The city of Passaic has indeed flourished under the government of its people to achieve distinction in the laboratory of America's beginnings as a most attractive and good place to live. In 1873, Dr. Benjamin B. Aycrigg was appointed the first mayor of the city succeeding the former executive officer of the people of this area, the Honorable Richard A. Terhune, who was president of Passaic when it was organized as a village in our governmental structure. The governing officials of the first and succeeding administrations of the city of Passaic have unstintingly and assiduously served our people in promoting and providing essential public services in pursuit of the health, happiness, safety, and well-being of all of its citizens, and I know you will want to join with me in a hearty tribute to all of their good works as well as our most sincere commendation and best wishes to the present public officials who administer the affairs of Passaic. The current roster of Passaic's eminent administrators is as follows:

The Honorable—

Gerald Goldman, Mayor; Peter Bruce, Council President; Dr. Estelle F. Greenberg, Councilwoman; Robert Hare, Councilman; Fred J. Kuren, Councilman; Emil Olszowy, Councilman; Marge Semler, Councilwoman; and Herbert M. Sorkin, Councilman.

Edward Ancuacis, Tax Collector; Nat Baron, Department of Recreation; George Carter, Purchasing Agent; Elias Drazin, Department of Inspections; Peter Frungello, Director of Welfare; Judge Dominick Giordano, Municipal Judge; Charles Gregory, Acting Tax Assessor; Ken Hill, Chief of Police; Senator Joseph Hirkala, Deputy Clerk; Lewis Jaffe, Fire Chief; Joseph Kane, Health Department; Anthony Martini, Clerk; Anthony Porretta, Department of Public Works; Ralph Sandor, Engineer; and Albin T. Wolak, Treasurer.

Mr. Speaker, to understand the present, we must understand the past and in order to acquaint you with the historic beginnings of the city of Passaic, I respectfully request your permission to enter at this point in the RECORD some excerpts from a booklet entitled "Passaic, New Jersey" prepared in June 1966 by the Jerseymen of Passaic High School which will provide you with an insight of the way of life in the early days and comprehensive background information on the people who contributed to the building of the city of Passaic and the history of America. Excerpts from this booklet on Passaic's history are as follows:

The land which Passaic occupies was originally a camping ground for the Lenni-Lenape Indians. New Jersey was claimed by the English as part of Virginia, but the Passaic area was settled by the Dutch.

On April 4, 1678, Hartman Michaelse (or Vreeland) bought Dundee Island from the Indians for a bottle of rum, thereby becoming the first settler in the area. Michaelse started a fur trading post, and perfected his title to the land by receiving patents from the Dutch Lords Proprietors for "one fatt hen" as quitrent. The area was named Acquackanonk Landing until 1854, when the name Passaic (meaning peaceful) was adopted . . .

The early settlers divided Acquackanonk into 28 farms, leaving 13 acres for a church. Religious services were begun in 1682, but no church building was constructed until 1693, when the Dutch Low Reformed Church was built. The church property was leased for the purpose of raising money to pay the minister's salary . . .

Robert Drummond was the first merchant in Passaic, owning a general store. "Big business" came to Passaic in the form of Abraham "Brom" Ackerman, who believed that there is good money in real estate. Ackerman built an extensive line of docks on the Passaic River which he ultimately sold to John Ryerson and Aaron Van Houten . . .

Many men whose names are familiar in Passaic were merchants—John Nutley, William Spear, Adolph Van Winkle, John Post, Cornelius Vreeland, Adrian Van Houten, and Samuel Van Saun . . .

Acquackanonk existed for fifty years without a physician; the first one was Jacob Arents, who came from Germany in 1707. John DeVausne was the first resident doctor. Prices were low, a doctor's visit cost, at most, fifty cents.

A free dispensary was begun in Passaic in 1891. Through the gifts of Miss Susan Palmer and Mrs. Joseph Hegeman in 1892, land comprising 70 city lots was secured for the purpose of building a hospital between Boulevard and Lafayette Avenue. The hospital, with endowments of $300,000, was built with a capacity of 47 patients.

In August, 1895, St. Mary's Hospital was chartered. Reverend J. A. Sheppard purchased the building on Pennington Avenue, arousing the ire of the neighbors, who objected to a hospital in their vicinity. Nevertheless, the hospital opened on November 8, 1898. Beth Israel Hospital was opened on Madison Street in March, 1927. The hospital is now located on Parker Avenue in an up-to-dato building . . .

The first official road in Passaic was the Paterson and Hamburgh Turnpike Road which led from Acquackanonk Landing to Deckertown. Constructed in 1809, the road had toll houses, and it was used by several stage coach lines. The Erie Railroad put the

highway out of business, and it became Main Avenue. Before the construction of the log-base Paterson and New York Plank Road in 1860, the only way to New York City was by boat via Newark. . .

In the middle of the nineteenth century, Passaic was a small town, filled with pre-Revolutionary War buildings, Streets, also, were different. Loveland (Passaic Street!) had only three buildings. Washington Place was a daisy field; East Main Avenue was called Cow Path; and Main Avenue was a muddy lane. There was only one public school, and no banks or sidewalks. . .

No history of the city would be complete without some mention of Passaic industries. In 1735, Stephen Basset established a tannery here, the first manufacturing industry in the state. Aside from a few mills, this tannery was the only Passaic industry until it ceased production in 1845. James Shepard opened a bleachery in 1813; it was located on the Weasel Brook, Acquackanonk, just outside the city limits.

Passaic became an industrial center for the following reasons: it had an ideal location, the railroads facilitated transportation, and the canal and river supplied water and aided navigation.

The largest industry was the textile industry. The early magnates of that industry were Peter Reid and Henry A. Barry. The Botany Worsted Mills began production in 1889. During the First World War, the Botany Company employed 6,850 people. In 1904, Julius Forstmann opened the Forstmann and Huffmann Company. The earliest textile mill in Passaic was the Passaic Print Works, founded by W. S. Locke in 1873. Unfortunately, all the Passaic textile industries have now left the city and population has decreased. . .

Outstanding companies were Okonite Mills established in 1888, (insulated wires), Pantasote Leather Company (artificial leather—"more beautiful and lasting than natural leather"), Paterson Parchment Paper Company, and Manhattan Rubber Manufacturing Company. . .

The growth of industry in Passaic called for banking institutions; and from 1869 to 1886 unsuccessful attempts were made to establish a bank. Passaic residents had to do their banking in New York or in Paterson. The Panic of 1873 helped check the movement for banking in town.

In 1886, Robert D. Kent organized the Passaic National Bank. The city's second bank, the State Trust and Safe Deposit Company opened in 1890. It later became the People's Bank and Trust Company. . . .

Mr. Speaker, the city of Passaic, as is typical of many of our highly industrialized communities born in America's cradle of industry, is presently being whiplashed by the wake of the catapult of development that accompanies the expansion and relocation of industry out of the city to seek larger quarters elsewhere. The people of Passaic are presently recuperating from the loss of two substantial national manufacturing companies who closed their doors and created a serious unemployment situation.

In reviewing Passaic's 100 years of urban experience, and contemplating the future of Passaic, the highly prestigious newspaper of Passaic-Clifton, the Herald News, provided capsule reports and statements of many leading citizens of Passaic in their Passaic centennial edition of July 30, 1973. The overwhelming enthusiasm and energetic efforts of all of the people of Passaic who have contributed and continue to contribute their lifetime endeavors towards the preservation and enhancement of their rich heritage are eloquently depicted in these statements. The following excerpt from the Herald News "Passaic Centennial Edition" of the statement made by the Passaic Centennial Committee is submitted herewith to be forever lastingly etched in our historic journal of Congress, as follows:

A City With a Proud Past—and a More Promising Future

One good century deserves another! On this occasion of the 100th Birthday celebration, Passaic looks forward to its Downtown Renewal Project.

With improved new public facilities, new housing, renewal of commercial and industrial areas, the future is indeed promising. Focusing on better community understanding, progressive educational techniques, we eagerly look ahead to a better tomorrow for the entire community.

The Passaic Centennial Committee is comprised of many highly reputable and leading citizens of our community who have been proudly and busily working with residents of the community in formulating patriotic, religious, and civic programs throughout the city in celebration of this historical event. The members of the committee are as follows:

Passaic Centennial

CHAIRMEN

Emil Olszowy, General Chairman.
Martin Fried, Arts and Sciences.
William Field, Contest.
Dr. Estelle Greenberg, History.
Dante Mecca, Carnival.
Joseph Bloomfield, Speakers Bureau.
Fr. Dan Noonan, Religious Affairs.
John Wojtowicz, Jr., Coordinator.
Carmen Russo, Antique Car Show.
William Coffey and George Coronato, Parade.
Edward M. Kudla, Special Events.
Dan Ryan, Junior Olympics.
Joan Scancarella, Publicity.
Richard O'Brien, Finance.
Joseph Giordano, Picnic.

COMMITTEE

Charles Andienszky, Angel Aponte, Jack Baker, Mrs. Albert Barowitz, Helen Billack, Mary Billack, Joseph Braunstein, Julius Bressolur, Peter Bruce, Frank Cannata, Mary Catena, Andrew Celmar, Alice Cerasia, Francis Cinnamon, Bertha Clark, Ralph A. Cone, Lorenzo Copeles, Comm. Wm. B. Cruise, James DeBiase, Walter Demarest, Pedro Diaz, Leon Ehrlich, Donald Farinella, Andrew Farmiga, Rene Feliciano, Tom Gamble, Peter Garbera, Georgia Gardner, Frank Giacomarro, Antoinette Giaconia, Rosemarie Giordano, Robert Goldberg, and Stanley Gradzki.

Harry Greenwald, Adrey Havriliak, Merlene Hayden, Ann Holster, Bob Holster, David Hotzman, Edward Jackson, Vinnie Jasper, Alan Juszcyk, Marie Knapp, Gregory Komeshok, Harold Kramer, Elizabeth Kuhlwilm, Phyllis Kuren, Jean Lazur, Arthur R. Lepow, Charles Locker, Gene LoPresti, Ken Lutzker, Jane Mandelbaum, Skippy Manney, Adeline Miller, Doris Miller, David Minsky, Mrs. Martin T. Moran, Samuel Nadel, Ivan Nelson, Charles Page, Mattie Mizenko, Ronald Olszowy, Katherine Peck, Bart Plescia, and M/M J. Pojanowski, Jr.

Marian Race, Luis Ramos, Jack Reynolds, Joanna Reynolds, Rolin Rodriguez, Col. John Roosma, Mrs. A. D. Rosenberg, Dr. M. H. Saffron, Thomas Schear, Mrs. A. E. Schefrin, Samuel Schultz, Mrs. John Sciranka, William Sruggs, Joseph Sefchik, Vincent Seminara, Dr. A. F. Senaldi, Dr. James Shenton, Marilyn Sniatkowski, Arthur Sparaga, Rev. Donald Steinle, Albin J. Stolarik, David Streit, Marjorie Swartz, Dary Tencza, Joyce Tencza, Walter Tencza, Mrs. Pat Trawinski, Rosemarie Trentacoste, Frances Vill'Neuve, Lee Wagner, Jerry Wallace, Arthur Walls, and Joseph Weiss.

Mr. Speaker, with the greatest admiration and respect I am pleased to commend to you and our colleagues these highly respected community leaders. A massive reconstruction and revitalization program is being fostered by the governing officials and citizens of Passaic with the undaunted spirit and determination indigenous to the people of America. I know you will want to join with me in extending the heartiest congratulations of the Congress and best wishes to the good people of the city of Passaic during the 1973 celebration of their 100th anniversary. We do indeed salute the city of Passaic and all of its citizens as we observe and commemorate this first century of progress and look ahead with them to the second century of opportunity which is indeed a great challenge not only for the people of Passaic, but all of urban America.

COX FIRING HELD ILLEGAL

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. WALDIE. Mr. Speaker, 2 weeks ago, Senator Moss, Representative Abzug, and myself joined as plaintiffs in a suit asking that the dismissal of Special Prosecutor Archibald Cox be declared illegal. It was our contention that President Nixon's directive to Acting Attorney General Bork to fire Mr. Cox, and then Mr. Bork's carrying out of that directive, were actions contrary to Justice Department regulations that stated quite clearly that the special prosecutor could only be removed for "extraordinary improprieties."

No such contention of impropriety was ever made by the President or Mr. Bork and, therefore, we believed that the firing was illegal.

Our view was confirmed earlier today when U.S. District Judge Gerhard A. Gesell declared the Cox firing to be illegal.

It is my belief, Mr. Speaker, that this decision has quite important ramifications for the Congress as it debates the issue of impeachment. I have charged the President with obstruction of justice in the impeachment resolution which I introduced in the House of Representatives on October 23 for myself and 30 cosponsors. We now have a court decision holding that the dismissal of Mr. Cox was illegal—and, therefore, it is clear that my charges of obstruction of justice have been given added credence.

Mr. Speaker, because of the overriding importance of this court decision, I now insert its full text into the Record:

[In the U.S. District Court for the District of Columbia]

Memorandum

Ralph Nader, Senator Frank E. Moss, Representative Bella S. Abzug, and Representative Jerome R. Waldie, Plaintiffs, v. Robert H. Bork, Acting Attorney General of the United States, Defendant. Civil Action No. 1954–73.

This is a declaratory judgment and in-

junction action arising out of the discharge of Archibald Cox from the office of Watergate Special Prosecutor. Defendant Robert H. Bork was the Acting Attorney General who discharged Mr. Cox. Plaintiffs named in the Amended Complaint are as listed above.

Some issues have already been decided. The matter first came before the Court on plaintiff's motion for preliminary injunction and a request that the trial of the action on the merits be consolidated with the preliminary injunction pursuant to Rule 5(a) of the Federal Rules of Civil Procedure. Defendant filed opposition papers, and a hearing was held on the detailed affidavits and briefs filed by the parties. The Court determined that the case was in proper posture for a determination on the merits at that time.

All injunctive relief requested in the proposed preliminary injunction tendered at the hearing and in the Amended Complaint was denied from the bench. The effect of the injunctions sought would have been to reinstate Mr. Cox as Watergate Special Prosecutor and to halt the Watergate investigation until he had reassumed control. It appeared to the Court that Mr. Cox's participation in this case was required before such relief could be granted. *See* Rule 19(a) of the Federal Rules of Civil Procedure. Yet Mr. Cox has not entered into this litigation, nor has he otherwise sought to be reinstated as Special Prosecutor. On the contrary, his return to prior duties at Harvard has been publicly announced. Moreover, a new Watergate Special Prosecutor was sworn in on November 5, 1973, and the Court felt that the public interest would not be served by placing any restrictions upon his on-going investigation of Watergate-related matters.

Plaintiffs continue to press for a declaratory judgment on the only remaining issue to be resolved: the legality of the discharge of Mr. Cox and of the temporary abolition of the Office of Watergate Special Prosecutor. To this end, it must initially be determined whether plantiffs have standing and whether a justiciable controversy still exists.

Defendant Bork contends that the congressional plantiffs lack standing[1] and that the controversy is moot. This position is without merit. The discharge of Mr. Cox precipitated a widespread concern, if not lack of confidence, in the administration of justice. Numerous bills are pending in the Senate and House of Representatives which attempt to insulate the Watergate inquiries and prosecutions from Executive interference, and impeachment of the President because of his alleged role in the Watergate matter—including the firing of Mr. Cox—is under active consideration.[2] Given these unusual circumstances, the standing of the three congressional plaintiffs to pursue their effort to obtain a judicial determination as to the legality of the Cox discharge falls squarely within the recent holding of the United States Court of Appeals for the District of Columbia Circuit in *Mitchell* v. *Laird*, No. 71-1510 (D.C. Cir. March 20, 1973). Faced with a challenge by a group of congressmen to the legality of the Indo-China War, the Court recognized standing in the following forceful terms:

"If we, for the moment, assume that defendants' actions in continuing the hostilities in Indo-China were or are beyond the authority conferred upon them by the Constitution, a declaration to that effect would bear upon the duties of plaintiffs to consider whether to impeach defendants, and upon plaintiffs' quite distinct and different duties to make appropriations to support the hostilities, such as raising an army or enacting other civil or criminal legislation. In our view, these considerations are sufficient to give plaintiffs a standing to make their complaint. . . ."

Id. at 4.

Unable to distinguish this holding, defendant Bork suggests that the instant case has been mooted by subsequent events and that the Court as a discretionary matter should refuse to rule on the legality of the Cox discharge. This view of the matter is more academic than realistic, and fails to recognize the insistent demand for some degree of certainty with regard to these distressing events which have engendered considerable public distrust of government. There is a pressing need to declare a rule of law that will give guidance for future conduct with regard to the Watergate inquiry.

While it is perfectly true that the importance of the question presented cannot alone save a case from mootness, *Marchand* v. *Director, United States Probation Office*, 421 F. 2d 331, 333 (1st Cir. 1970), the congressional plaintiffs before the Court have a substantial and continuing interest in this litigation. It is an undisputed fact that pending legislation may be affected by the outcome of this dispute and that the challenged conduct of the defendant could be repeated with regard to the new Watergate Special Prosecutor if he presses too hard,[3] an event which would undoubtedly prompt further congressional action. This situation not only saves the case from mootness, *see United States* v. *Concentrated Phosphate Export Assoc.*, 393 U.S. 199, 203-04 (1968); *Friend* v. *United States*, 388 F. 2d 579 (D.C. Cir. 1957), but forces decision. The Court has before it an issue that is far from speculative and a strong showing has been made that judicial determination of that issue is required by the public interest. Under these circumstances, it would be an abuse of discretion not to act.

Turning then to the merits, the facts are not in dispute and must be briefly stated to place the legal discussion in the proper context.

The duties and responsibilities of the Office of Watergate Special Prosecutor were set forth in a formal Department of Justice regulation,[4] as authorized by statute.[5] This regulation gave the Watergate Special Prosecutor very broad power to investigate and prosecute offenses arising out of the Watergate break-in, the 1972 Presidential election, and allegations involving the President, members of the White House staff or presidential appointees. Specifically, he was charged with responsibility to conduct court proceedings and to determine whether or not to contest assertions of Executive privilege. He was to remain in office until a date mutually agreed upon between the Attorney General and himself, and it was provided that "The Special Prosecutor will not be removed from his duties except for extraordinary improprieties on his part."

On the same day that this regulation was promulgated, Archibald Cox was designated as Watergate Special Prosecutor.[6] Less than four months later, Mr. Cox was fired by defendant Bork. It is freely admitted that he was not discharged for an extraordinary impropriety.[7] Instead, Mr. Cox was discharged on the order of the President because he was insisting upon White House compliance with a Court Order which was no longer subject to further judicial review. After the Attorney General had resigned rather than fire Mr. Cox on this ground and the Deputy Attorney General had been discharged for refusing to do so, defendant Bork formally dismissed Mr. Cox on October 20, 1973, sending the following letter:[8]

"DEAR Mr. COX: As provided by Title 28, Section 508(b) of the United States Code and Title 28, Section 0.132(a) of the Code of Federal Regulations, I have today assumed the duties of Acting Attorney General.

"In that capacity I am, as instructed by the President, discharging you, effective at once, from your position as Special Prosecutor, Watergate Special Prosecution Force.

"Very truly yours,

"ROBERT H. BORK,
"Acting Attorney General."

Thereafter, on October 23, Mr. Bork rescinded the underlying Watergate Special Prosecutor regulation, retroactively, effective as of October 21.[9]

The issues presented for declaratory judgment are whether Mr. Cox was lawfully discharged by defendant on October 20, while the regulation was still in existence, and, if not, whether the subsequent cancellation of the regulation lawfully accomplished his discharge. Both suppositions will be considered.

It should first be noted that Mr. Cox was not nominated by the President and did not serve at the President's pleasure. As an appointee of the Attorney General,[10] Mr. Cox served subject to congressional rather than Presidential control. *See Myers* v. *United States*, 272 U.S. 52 (1926). The Attorney General derived his authority to hire Mr. Cox and to fix his term of service from various Acts of Congress.[11] Congress therefore had the power directly to limit the circumstances under which Mr. Cox could be discharged, *see United States* v. *Perkins*, 116 U.S. 483 (1886), and to delegate that power to the Attorney General, *see Service* v. *Dulles*, 354 U.S. 363 (1957). Had no such limitations been issued, the Attorney General would have had the authority to fire Mr. Cox at any time and for any reason. However, he chose to limit his own authority in this regard by promulgating the Watergate Special Prosecutor regulation previously described. It is settled beyond dispute that under such circumstances an agency regulation has the force and effect of law, and is binding upon the body that issues it. *Accardi* v. *Shaughnessy*, 347 U.S. 260 (1954) (*"Accardi I"*); *Bonita* v. *Wirtz* 369 F.2d 208 (D.C. Cir. 1966); *American Broadcasting Co.* v. *F.T.C.*, 179 F.2d 437 (D.C. Cir. 1949); *United States* v. *Chapman*, 179 F. Supp. 447 (E.D. N.Y. 1959). As the Ninth Circuit observed in *United States* v. *Short*, 240 F.2d 292, 298 (9th Cir. 1956):

"An administrative regulation promulgated within the authority granted by statute has the force of law and will be given full effect by the courts."

Even more directly on point, the Supreme Court has twice held that an Executive department may not discharge one of its officers in a manner inconsistent with its own regulations concerning such discharge. *See Vitarelli* v. *Seaton*, 359 U.S. 535 (1959); *Service* v. *Dulles*, *supra*. The firing of Archibald Cox in the absence of a finding of extraordinary impropriety was in clear violation of an existing Justice Department regulation having the force of law and was therefore illegal.

Defendant suggests that, even if Mr. Cox's discharge had been unlawful on October 20, the subsequent abolition of the Office of Watergate Special Prosecutor was legal and effectively discharged Mr. Cox at that time. This contention is also without merit. It is true that an agency has wide discretion in amending or revoking its regulations. *United States* v. *O'Brien*, 391 U.S. 367, 380 (1968). However, we are once again confronted with a situation in which the Attorney General voluntarily limited his otherwise broad authority. The instant regulation contains within its own terms a provision that the Watergate Special Prosecutor (as opposed to any particular occupant of that office) will continue to carry out his responsibilities until he consents to the termination of that assignment.[12] This clause can only be read as a bar to the total abolition of the Office of Watergate Special Prosecutor without the Special Prosecutor's consent, and the Court sees no reason why the Attorney General cannot by regulation impose such a limitation upon himself and his successors.

Even if the Court were to hold otherwise,

Footnotes at end of article.

however, it could not conclude that the defendant's Order of October 23 revoking the regulation was legal. An agency's power to revoke its regulations is not unlimited—such action must be neither arbitrary nor unreasonable. *Kelly* v. *United States Dept. of Interior*, 339 F. Supp. 1095, 1100 (E.D. Cal. 1972). *Cf. Grain Elevator, Flour and Feed Mill Workers* v. *N.L.R.B.*, 376 F.2d 774 (D.C. Cir.), *cert. denied*, 389 U.S. 932 (1967); *Morrison Mill Co.* v. *Freeman*, 365 F.2d 525 (D.C. Cir. 1966), *cert. denied*, 385 U.S. 1024 (1967.) In the instant case, the defendant abolished the Office of Watergate Special Prosecutor on October 23, and reinstated it less than three weeks later under a virtually identical regulation.[13] It is clear that this turnabout was simply a ruse to permit the discharge of Mr. Cox without otherwise affecting the Office of the Special Prosecutor—a result which could not legally have been accomplished while the regulation was in effect under the circumstances presented in this case. Defendant's Order revoking the original regulation was therefore arbitrary and unreasonable, and must be held to have been without force or effect.

These conclusions do not necessarily indicate that defendant's recent actions in appointing a new Watergate Special Prosecutor are themselves illegal, since Mr. Cox's evident decision not to seek reinstatement necessitated the prompt appointment of a successor to carry on the important work in which Mr. Cox had been engaged. But that fact does not cure past illegalities, for nothing in Mr. Cox's behavior as of October 23 amounted to an extraordinary impropriety, constituted consent to the abolition of his office, or provided defendant with a reasonable basis for such abolition.

Plaintiffs have emphasized that over and beyond these authorities the Acting Attorney General was prevented from firing Mr. Cox by the explicit and detailed commitments given to the Senate, at the time of Mr. Richardson's confirmation, when the precise terms of the regulation designed to assure Mr. Cox's independence were hammered out. Whatever may be the moral or political implications of the President's decision to disregard those commitments, they do not alter the fact that the commitments had no legal effect. Mr. Cox's position was not made subject to Senate confirmation, nor did Congress legislate to prevent illegal or arbitrary action affecting the independence of the Watergate Special Prosecutor.

The Court recognizes that this case emanates in part from congressional concern as to how best to prevent future Executive interference with the Watergate investigation. Although these are times of stress, they call for caution as well as decisive action. The suggestion that the Judiciary be given responsibility for the appointment and supervision of a new Watergate Special Prosecutor, for example, is most unfortunate. Congress has it within its own power to enact appropriate and legally enforceable protections against any effort to thwart the Watergate inquiry. The Courts must remain neutral. Their duties are not prosecutorial. If Congress feels that laws should be enacted to prevent Executive interference with the Watergate Special Prosecutor, the solution lies in legislation enhancing and protecting that office as it is now established and not by following a course that places incompatible duties upon this particular Court. As Judge Learned Hand warned in *United States* v. *Marzano*, 149 F. 2d 923, 926 (1945):

"Prosecution and judgment are two quite separate functions in the administration of justice; they must not merge."

This Memorandum contains the Court's findings of fact and conclusions of law. The rulings made are set out in the attached Final Order and Declaratory Judgment.

GERHARD A. GESELL,
U.S. District Judge.

NOVEMBER 14, 1973.

FOOTNOTES

[1] At the injunction hearing, the Court dismissed Mr. Nader as a plaintiff from the bench, it being abundantly clear that he had no legal right to pursue these claims. *Flast* v. *Cohen*, 392 U.S. 83, 102 (1968).

[2] Referring to various bills pending in the Senate, Senator Moss stated, "I am severely hampered in my ability to discharge my duties because of uncertainty which exists with respect to the legality of Special Prosecutor Cox's dismissal and the abolition of his office." Affidavit of Senator Frank E. Moss, dated October 29, 1973. Congressman Waldie is a member of the House Judiciary Committee and both he and Congresswoman Abzug have introduced resolutions calling for the impeachment of the President because of the Cox dismissal and other matters.

[3] The regulation from which the present Watergate Special Prosecutor, Mr. Leon Jaworski, derives his authority and his independence from the Executive branch is virtually identical to the original regulation at issue in this case. *See* note 13 *infra*. It is therefore particularly desirable to enunciate the rule of law applicable if attempts are made to discharge him.

[4] 38 F.R. 14688 (June 4, 1973). The terms of this regulation were developed after negotiations with the Senate Judiciary Committee and were submitted to the Committee during its hearings on the nomination of Elliot Richardson for Attorney General. Hearings Before the Senate Comm. on the Judiciary, 93rd Cong., 1st Sess. 144–46 (1973).

[5] *See* 5 U.S.C. § 301.

[6] Justice Department Internal Order 518–73 (May 31, 1973).

[7] *See* Defendant's Brief in Opposition to Plaintiffs' Motion for Preliminary Injunction, at 13.

[8] Exhibit 12 to the Affidavit of W. Thomas Jacks.

[9] 38 F.R. 29466 (Oct. 23, 1973).

[10] *See* 38 F.R. 14688 (June 4, 1973).

[11] 5 U.S.C. § 301; 28 U.S.C. §§ 509–10.

[12] *See* 38 F.R. 14688 (June 4, 1973): "The Special Prosecutor will carry out these responsibilities with the full support of the Department of Justice, until such time as, in his judgment, he has completed them or until a date mutually agreed upon between the Attorney General and himself."

[13] The two regulations are identical, except for a single addition to the new regulation which provides that the Special Prosecutor may not even be discharged for extraordinary improprieties unless the President determines that it is the "consensus" of certain specified congressional leaders that discharge is appropriate. *Compare* 38 F.R. 30738 (Nov. 9, 1973) *with* 38 F.R. 14688 (June 4, 1973).

[In the U.S. District Court for the District of Columbia]

FINAL ORDER AND DECLARATORY JUDGMENT

Ralph Nader, Senator Frank E. Moss, Representative Bella S. Abzug, and Representative Jerome R. Waldie, Plaintiffs, v. Robert H. Bork, Acting Attorney General of the United States, Defendant. Civil Action No. 1954–73.

On the basis of findings of fact and conclusions of law set forth in an accompanying Memorandum filed this day, it is hereby ordered and decreed that:

(1) Plaintiff's motion for leave to file an Amended Complaint and add additional plaintiffs is granted.

(2) Plaintiff's motion for preliminary injunction is denied, and the trial of the action on the merits is advanced and consolidated with the hearing on said motion.

(3) Mr. Ralph Nader is dismissed as plaintiff for lack of standing.

(4) All injunctions prayed for in the Amended Complaint are denied.

(5) The Court declares that Archibald Cox, appointed Watergate Special Prosecutor pursuant to 28 C.F.R. § 0.37 (1973), was illegally discharged from that office.

LELAND A. GREEN,
U.S. District Judge.

NOVEMBER 14, 1973.

PRESIDENT DENT

HON. JOHN N. ERLENBORN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. ERLENBORN. Mr. Speaker, for many weeks now, I have been trying to get the attention of the chairman of the General Subcommittee on Labor (Mr. DENT) about a minimum wage bill, but he has turned a deaf ear on this subject.

If you will pardon my French, perhaps he'll get the message in song:

Président Dent, Président Dent,
Acoutez-vous? Acoutez-vous?
Nous desirons une seance,
Pour des salaries minimum,
Pourquoi pas maintenant?
Pourquoi pas maintenant?

Translated into English, very loosely, of course, the message is:

Are you listening, are you listening,
Chairman Dent, Chairman Dent?
We desire a meeting,
About minimum wages,
Why not now? Why not now?

THE METRIC SYSTEM

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. McCLORY. Mr. Speaker, with the advent of legislation to help coordinate the present drift of our Nation to the metric system of measurement, it is appropriate to inform the people of this country about some of the issues facing the passage of the legislation.

At the present time, in the House of Representatives the administration's metric bill (H.R. 11035) is locked up in the House Rules Committee.

Fortunately, while we have not officially, through Government sponsorship, started conversion, many sectors of the country have begun voluntarily to convert to the metric system. In fact, the optical, photographic, and pharmaceutical industries made the switch some years ago.

This country is going metric at an ever increasing rate with or without Federal legislation. The main argument for Federal legislation is that it will cost less to change to metric following a careful, coordinated plan than to continue our present drift. The Secretary of Commerce recommended 2 years ago that we change to the international metric system deliberately and carefully; the changeover to be a voluntary one to predominant metric usage; and that the changeover costs should "lie where they fall," which means that they will be borne by those benefiting from the changeover.

The trade posture of the United States suffers enough as it is without imposing such problems such as those associated with this country not using metric measurement, which is the language of measurement of most of the world.

The countries of the world that have not begun conversion to the metric system of measurement include: Barbados, Burma, Gambia, Jamaica, Liberia, Nauru, Sierra Leone, Tonga, Yemen Arab Republic, Yemen People's Republic, and the United States of America.

In this regard, an excellent point is made by J. Bryan Adair in his article "Texans and the Metric System," which was published recently—June 1973—in the Texas Business Review:

> Of the top six major free-world trading nations, only the four using the metric systems for the entire period [1962–1969] increased their world market shares, with the United States and Britain experiencing declines (p. 130).

He also noted that historically countries using the metric system have made "heavy inroads on the American share of free-world trade."

Mr. Adair notes:

> The loss of export trade experienced by Texas primary metals and machinery industries solely as a result of the presently used measurement system is estimated at over $15 million per year at the present rate. The entire cost of metrication to Texas industry could be covered in less than 30 years by the savings in those two industries alone. Further, metrication will give Texas industry as a whole vast opportunities in foreign trade. The disadvantage in foreign trade will increase in the future unless this country adopts the metric system, particularly since many of our primary trading partners are forming trade alliances with other metric countries (p. 133).

What kind of conversion is now underway in this country? The Secretary of Commerce reports that—

First, many corporations have announced plans to go metric, for example, IBM, General Motors, Xerox, Caterpillar Tractor, Honeywell, Ford, International Harvester, Timken Roller Bearing, and so forth;

Second, the Nation's schools are increasingly teaching the metric system of measurement. The States of California and Maryland have formally announced conversion plans for their schools;

Third, several States have metric legislation under consideration by their legislatures and several have formed metric commissions. The California State Division of Oil and Gas recently announced a change to sole use of metric. Road signs giving distances and/or speed limits in both metric and customary units are appearing in several States;

Fourth, many key trade associations have adopted prometric resolutions. These include the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Education Association, the American Home Economics Association, the National Grange, and the American Institute of Architects;

Fifth, the National Park Service recently announced plans to add metric designations to all of its signs bearing weights or measures as an aid to foreign visitors; and

Sixth, the military is now metric as are most of its suppliers.

Mr. Speaker, it is clear that the Nation and its more progressive segments are not waiting for our plodding governmental machinery to catch up. They have taken the initiative to act upon themselves, much to their credit.

I think that it is appropriate now to look at some of the reasons why metric legislation is now being held up in the House of Representatives and what groups are actively seeking to achieve special monetary provisions.

As evidenced by hearings held by the Senate Commerce Committee—November 2, 1973—two groups are out to gain special favor. These two groups are the American Federation of Labor and Congress of Industrial Organizations—AFL–CIO—and the National Federation of Independent Business.

The AFL–CIO is demanding that the Government provide compensation and adjustment assistance to workers for the cost of tools, the costs of educational retraining, and other conversion transition costs, including relocation, job loss, downgrading, and loss of income or promotion opportunities as a result of workers' lack of familiarity with the metric system.

The National Federation of Independent Business is seeking money and assistance from the taxpayer. The federation wants the Small Business Act to be amended so that it will "allow loans as the administration may determine to be necessary or appropriate to assist any small business concern to make changes in its equipment, facilities, methods of operations, or to retrain or educate its employees to conform to the national plan of metric conversion submitted under the Metric Conversion Act of 1973, if the administration determines that such concern is likely to suffer economic injury without assistance under this paragraph."

The AFL–CIO and the Federation of Independent Business are unnecessarily seeking aid. In fact, if they obtained the aid that they are seeking it may well destroy any Federal metric legislation. The fact that no other country in the world that has undergone conversion has found it necessary for such aid and let the costs fall where they may appears to have had little impact on the rather self-serving interests of these two groups. Any improvement in the economy of this great Nation brought about by metric conversion will only aid small business and giant labor, whereas the inability to convert in an orderly and deliberate manner with little or no costs will hurt both labor and small business. The reason for this is that without Federal legislation the undirected drift of metric conversion will almost certainly guarantee that conversion costs will be higher because of duplication of effort and other factors.

The Secretary of Commerce felt strongly enough about keeping Government cost factors low that he noted that the passage of the metric legislation without higher costs can only help the small businessman; that is, he will be able to make the necessary changes in a well-planned and thus more efficient way. In the U.S. Metric Study's report to Congress it was stated that small business is the segment of our business and industry that is in greatest need of a coordinated metrication plan. Big business and industry have the "technical, financial, and managerial resources for planning their own metric changeover and dealing with it over a long period. Small businesses do not possess such resources."

The impact upon small businesses by the voluntary conversion to the metric system now underway in the larger corporations is tremendous, especially when one considers that, for example, General Motors has approximately 40,000 supplying companies. As the larger companies voluntarily go metric, even without legislation, the small companies in order to survive will by necessity be compelled to go metric to meet competition and fill orders.

Why forfeit such beneficial legislation by asking for unreasonable handouts?

Information that we have from the Bureau of Standards indicates that among those companies that have already begun conversion to the metric system, the policy has been for the firms themselves to assume the costs of all tool and equipment replacement, even worker-owned tools. This is the policy of General Motors, Ford, Caterpillar Tractor, International Harvester, and Timken Roller Bearing to name a few. Therefore, the worker does not have to worry about replacement costs in the sense that it will cause him undue hardship. How many foreign car specialists do we have in the country today that already own and use metric tools?

The Bureau of Standards notes that the retraining of workers has not been a problem and it is not anticipated to be a problem in the future. For example, the pharmaceutical industry converted to the metric system 20 years ago and it reports that the retraining of its workers was easily accomplished, much easier than initially expected. Other firms that have already converted report similar experiences.

Moreover, the Bureau reports that workers will generally need to learn only a small part of the metric system and that that portion can be learned in a few hours. No special effort or formal training is necessary. For the most part, industry accepts the responsibility and costs of retraining their workers.

Mr. Speaker, in conclusion, conversion to the metric system of measurement can only help this country, its businesses, and its workers. It will in no way hinder our international trade posture or cause economic hardship to befall our tradesmen, small businessmen, and workers in our domestic sector. We want to make this country strong and viable in the international marketplace. Such strength abroad can only make us economically healthy at home. One way to assure ourselves of this prospect is to bring about conversion to the metric system. The United States cannot afford to go it alone with such partners as Yemen People's Republic, Nauru, and Tonga, good friends that they are. In order to even compete with such industrial nations as Japan and the Common Market coun-

tries, we have to use the same form of measurement they use. If we do not, they very simply will not buy our goods or trade with us. Exclusive metric markets are being formed now. Also, they will set the metric standards for the world and we will have little or nothing to say about it. We cannot afford to place ourselves in such a position.

NOVEMBER 19—DISCOVERY OF PUERTO RICO

HON. HERMAN BADILLO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. BADILLO. Mr. Speaker, on Monday, November 19, the people of Puerto Rico celebrate Discovery Day, the 480th anniversary of the discovery of the island by Columbus. History tells us that on his second voyage to the new world, Columbus spotted the island on November 19, 1493. The following day he and his companions went ashore at Cabo Rojo and spent 2 days there acquiring fresh water and other provisions and enjoying the beauty of the tropical climate, clear waters, and swaying palms. Among the members of the crew was Juan Ponce de León, who later became the island's first Governor and who is well known for his exploits in search of the legendary Fountain of Youth.

Puerto Rico has long taken deep pride in the celebration of this occasion, and those of us who reside on the mainland continue to share in the festivities. The date is widely observed in New York City schools and affords us an opportunity to reflect on our Spanish heritage and on the diversity of our culture. But although we do recall the many different traditions which came together to form the present Puerto Rican society, we also recognize the need for unity and a sense of common brotherhood.

While the occasion is a happy one, those of us who are looking toward the day when the Spanish speaking can take their place as full-fledged members of our society cannot help but remember that there is still a lot to be done. More than a decade of civil rights activities has still not solved the appalling statistics which show that Spanish-speaking Americans, along with other minority groups, continue to receive less than an equal share of opportunity in education, housing, economic progress, health, et cetera. The present administration points with pride to the 16-point program which has raised Federal employment of Spanish speaking two-tenths of 1 percent since its inception in 1969. The poverty program has gradually been dismantled, and our citizens have experienced an all-time high both in prices and in unemployment. When even the middle-class American is suffering, what, then, is happening to the poor in the barrios of the cities and in the rural areas of the Southwest, both of which are heavily populated by Spanish-speaking Americans? And what is happening on the island of Puerto Rico itself, where we find the greatest single concentration of Spanish-speaking Americans? According to the 1970 census, the median family income in Puerto Rico is $3,063; the median educational attainment is 6.9 years of schooling, compared to 12.1 years in the States, this in spite of the fact that the island devotes a greater portion of its total budget to education than any single State in the Union.

It is not my intention to detract from the spirit of this festivity by citing such discouraging figures. It is, rather, that I wish to stress the urgent nature of our problems and the need to act on them now. A lot has changed, both on the island and on the mainland, in the 480 years since that first recorded discovery. Columbus, if he were to come back to our shores today, would be amazed to find that we have built skyscrapers, designed airplanes, and extended our average life expectancy to beyond 70 years—more than double that of Europeans in the 15th century. But he might also be surprised to learn that we have not yet discovered a way to distribute these benefits equally to all segments of our population. Hopefully, we would explain that we are trying to approach our problems positively, that it is our firm intention to resolve the inequities we see around us.

On this date 20 years ago one of our greatest patriots, the then Gov. Luiz Muñoz Marín, delivered a moving speech over CBS radio describing the dramatic changes which have taken place on the island since its discovery by Columbus. Summing up the advances of a modern, technological society, he states:

We think Columbus, if he were to return today, would understand what we are trying to do. We would explain it to him in the language of Queen Isabela, although we could also explain it in the language of Sir Francis Drake if Columbus had gotten around to learning it by this time. He would see, we believe, that we are explorers, too. Just as he was an explorer in geographic space, we are explorers in the ranges of improving man's stay on earth. We are trying to push ahead the frontiers of man's knowledge. We are trying to apply it not only to making a better living but, what is more important, to making a better life.

We approach our multitudinous problems with courage born of the knowledge that we have traveled far on the rocky road. We face the future with the faith that man can and does rise above the pettiness of social position, racial differences, and local and personal economic interests to work for the common good.

We believe that not only Columbus would understand. We believe that all Americans to the north and to the south of Puerto Rico, representing the two great cultures that meet and grow friendly in Puerto Rico—trail blazers both in their different ways—will also understand.

BUREAU OF RECLAMATION'S GARRISON DIVERSION PROJECT VIOLATES INTERNATIONAL LAW

HON. CHARLES A. VANIK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. VANIK. Mr. Speaker, yesterday, I commented on a North Dakota project of the Department of the Interior's Bureau of Reclamation known as the Garrison Diversion Unit.

This project is a financial and environmental nightmare. It is opposed by many of the farmers it is supposed to benefit—and now it is creating an international problem. The project is in clear violation of a 64-year-old international boundary water treaty as well as the world environmental agreement signed in Stockholm last year.

To explain in detail the type of damage this project is causing the Canadians, I would like to enter in the RECORD at this point the full text of a letter from the Canadian Government to the U.S. Government. In addition, I would like to include the letter of transmittal from the State Department to the Department of the Interior. As this letter indicates, the State Department views this as a very serious matter.

Mr. Speaker, we must not press ahead with this project in light of all the environmental and cost/benefit questions which have been raised. There is absolutely no justification for this project to proceed. The further we proceed, the more it will cost us to correct the damage and terminate the program—and it must be obvious to everyone now that we must and will terminate. I urge the Department of the Interior to order an immediate end to the Garrison Diversion Unit before any more good money is thrown away on this project. The letter follows:

DEPARTMENT OF STATE,
Washington, November 5, 1973.

HON. ROGERS C. B. MORTON,
Secretary of Interior.

DEAR ROG: The Canadian Embassy has delivered to the Department of State its enclosed Note, No. 432, dated October 23, 1973. This Note reiterates Canada's strong and consistent objection to any further development of the Garrison Diversion Unit in North Dakota which could result in degradation of waters flowing into Canada. This Note goes beyond Canada's prior expressions on the subject and urgently requests that the United States Government establish "a moratorium on all further construction of the Garrison Diversion Unit until such time as the United States and Canadian Governments can reach an understanding that Canadian rights and interests have been fully protected in accordance with the provisions of the Boundary Waters Treaty" between the United States and Canada.

Canada's position is consistent with that which the Department of State has taken in its communications and discussions of the Garrison project with the Bureau of Reclamation. We think that the obligation of the United States under the 1909 Boundary Waters Treaty should be very carefully weighed before further funds are expended on this project. The documentation delivered by Canada in support of its Note suggests that continuation of the Souris section of the project could result in pollution of waters crossing the boundary "to the injury of health and property" in Canada in contravention of our obligation under Article IV of the Boundary Waters Treaty.

I am aware that the Garrison Division Unit is a very large project and that substantial expenditures have already been made in connection with its construction. In view of Canada's protest, however, and the potential harm of continuation of the Souris portion of the project to our relations with Canada, we must give serious consideration to the Canadian request and to the circumstances and concerns which underlie it. To

resolve this matter, I would like to suggest that officials of our departments meet, along with other interested U.S. agencies, as soon as possible in order to determine what action should be taken in response to the Canadian Note.

Sincerely,

KENNETH RUSH,
Acting Secretary.

NOTE No. 432

The Canadian Embassy presents its compliments to the Department of State and has the honour to refer its Notes No. 313 of October 19, 1971 and No. 35 of January 25, 1973, concerning the effect on water quality in the Souris River of the proposed Garrison Diversion Project in the State of North Dakota.

The Embassy reaffirms that the Government of Canada continues to be gravely concerned that return flows from the irrigation of land in the Souris Loop and areas adjacent to tributaries of the Red River will significantly and seriously degrade water quality in these two Rivers. The Government of Canada has concluded that based on studies conducted in both countries the proposal would run counter to the obligations assumed by the United States under Article IV of the Boundary Waters Treaty of 1909 that: ". . . waters herein defined as boundary waters and waters flowing across the boundary shall not be polluted on either side to the injury of health or property on the other."

Studies have been undertaken in Canada that indicate that communities, such as Souris and Portage la Prairie, would be required either to seek alternative sources of water supply or undertake additional treatment of present water supplies drawn from the Souris and Assiniboine Rivers. The attachments to this Note contain more detailed explanations of the injury to property resulting from transboundary pollution likely to be incurred by these two Canadian municipalities. The Department of State will understand that the property damage values listed are indicative and minimum values and do not represent other injury to health or property that might be incurred. Such other injury by way of example would include: the unsuitability of the Souris return flows for irrigation purposes, and for various industrial uses including food processing; and adverse effects that may accrue to other downstream interests on both rivers from the Boundary to Lake Winnipeg. In short, options available to Canada for the use of the flows of these Rivers will be severely limited by the Garrison Division.

The Government of Canada is also mindful that on July 13, 1972 the Canadian Minister of Environment and the Chairman of the United States President's Council on Environmental Quality jointly reaffirmed their support for Principle 21 of the Declaration on Human Environment that:

"States have, in accordance with the charter of the United Nations and the principles of international law, responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond national jurisdiction."

The Department of State will recall that the group of Canadian and U.S. officials which was to consider alternatives to the present plans for the Garrison Diversion so as to protect Canadian interests, has met only once. No agreement could be reached as to the terms of reference for the group and thus no progress has been achieved through this mechanism.

The Government of Canada is confident the United States Government will recognize the need to avoid degradation of the water of the Souris River passing into Canada. Accordingly, the Government of Canada requests urgently that the Government of the United States establish a moratorium on all further construction of the Garrison Diversion Unit until such time as the United States and Canadian Governments can reach an understanding that Canadian rights and interests have been fully protected in accordance with the provisions of the Boundary Waters Treaty.

The Government of Canada looks forward to an early reply to this request. Further, the Government of Canada suggests that senior officials from both sides representing all interests meet quickly, following the establishment of a moratorium, to reach the understanding described above.

The Canadian Embassy avails itself of this opportunity to renew to the Department of State the assurances of its highest considerations.

WASHINGTON, D.C., *October 23, 1973.*

ATTACHMENT 1

N.B.: It should be noted that the statement below is illustrative only. The figures quoted are preliminary engineering estimates and do not cover the entire range of possible injury to health and property.

The forecasted degradation in water quality of the Souris River would appear to be serious enough to force the town of Souris to seek an alternate supply source. The availability of an alternate source was investigated by the Manitoba Water Supply Board during 1970. Their investigations revealed a potential groundwater supply approximately 8 miles from the town. The capital costs of development of this source and providing treatment facilities for hardness reduction and iron removal was estimated to be 470,000 dollars. Current costs may well be in the order of 600,000 to 700,000 dollars.

Water suply for the city of Portage la Prairie will not be affected to the same extent as the town of Souris. The Souris River will be diluted by the Assiniboine River, which is the city's water supply source. The forecasted increases in hardness and total dissolved solids will increase water treatment costs. It currently costs Portage la Prairie approximately 25 cents per 1,000 gallons to treat its present water. Chemical costs for treatment make up the bulk of this figure. Poorer water quality in the Assiniboine River will require the use of larger quantities of chemicals to provide the current quality of finished water. An increased cost of 10–15 cents per 1,000 gallons would not appear to be unreasonable. Assuming a 15 cent per 1,000 gallon increase and a daily use of 1.5 million gallons the annual cost to the city would be: $82,125.

DEPARTMENT OF THE ENVIRONMENT.
OTTAWA.

GARRISON DIVERSION UNIT—SOURIS RIVER WATER DEGRADATION AS A RESULT OF IRRIGATION IN THE SOURIS LOOP

INTRODUCTION

On April 29, 1969 the Canadian Embassy in Washington, D.C. in a Note Verbale to the U.S. Department of State raised the matter of the Garrison Diversion, an irrigation project forming part of the Missouri River Basin Project, in order to determine if the possible effect on the quantity and quality of the Souris River waters flowing into Canada was being considered.

Since that time this matter has been the subject of several exchanges of notes between the Canadian Embassy and the U.S. State Department, and a matter of continuing concern to both the Canadian and U.S. governments.

The object of this paper is to outline the potential problems of water quality which the irrigation project will create, and give some assessment of the implications for Canada of a degradation of its water supply.

Adverse effects on water quality in the Souris River of irrigation return flow

(a) Increased Concentration of Total Dissolved Solids (TDS)

The Bureau of Reclamation Environmental Impact Statement indicated that there would be a substantial increase in TDS in Souris River flow as a result of the irrigation project. The applied irrigation water from the Missouri would contain approximately 540 mg/l of TDS, the waters of the Souris historically have a TDS concentration of 796 mg./l, the return flow from the irrigation project would have about 1522 mg/l of TDS, and the average TDS concentration of Souris River flow would jump to 1322 mg/l. The figures for Souris River quality are perhaps not completely indicative of the potential problems because quality varies considerably from season to season and from year to year.

The predicted TDS levels would undoubtedly affect municipal use of the Souris River. The study predicted major increases in calcium and magnesium concentrations. Since the town of Souris, Manitoba, treats river water with a process which replaces magnesium and calcium ions with sodium ions the total concentration of sodium in the town's drinking water would increase from 239 mg/l to 344 mg/l on the average. High sodium content is a potential health problem. Indeed, the water might even taste salty at times.

Such a dramatic alteration in the water supply would probably not be calmly accepted by the people in the area. The changes in the taste and laundering characteristics of the water would be too important to escape notice.

It should be noted too, that certain industries may be very sensitive to changes in water hardness. No surveys have been done which would indicate the immediate impact of water with a high TDS concentration, but such an increase could affect existing industrial users and would certainly be considered by industries planning to locate in the area.

(b) Soil Leaching During the Initial Phase

The Bureau of Reclamation proposes that during the initial stages of the project leaching water will be provided "to flush the soil profile." During the introduction of the irrigation project the report predicted TDS concentrations would be considerably higher than after equilibrium has been reached.

In the early years TDS concentrations in excess of 2000 mg/1 can be expected in the return flows. This would result in extremely high TDS concentrations in the Souris unless the irrigation project was developed and expanded only gradually. The Bureau calculates that approximately 20 years would be required before equilibrium would be established. This problem serves to emphasize the concerns mentioned in (a) above.

(c) Increased Nutrient Levels

The Bureau apparently assumes 100% efficiency in the agricultural use of fertilizers. While it is true that farmers try to use fertilizers efficiently because of their high cost, studies indicate that 100% efficiency is not attained in practice. The Great Lake study found that 30–40% of nutrient pollution into the Great Lakes remained unaccounted for after the inclusion of all point sources. In Manitoba, a similar study of Lake Winnepeg found 70% of nutrient pollution was contributed by non-point sources; agricultural and urban run-off.

Nutrient loading of the Souris is already high, in part because of the many low dams and several duck reservations in North Dakota. Higher nutrient levels could result in increased plant and algae growth, thus complicating the task of municipal water treatment.

(d) Increased turbidity; increased temperatures

Canada expects that irrigation return flow will also have a higher concentration of suspended particulates than would be the natural flow, because of increased soil run-off. Because irrigation return waters are usually warmer than natural flows, algae and plant growth will be accelerated. Both of these con-

ditions would add to problems of municipal water treatment and other uses.

(e) Possible Trace Metals

Some trace metals, if present, could make Souris River water useless for certain purposes. For example, the presence of boron would make the water unusable for irrigation.

The most critical use: Municipal water supply

The first use to be affected in the event of water quality degradation is the use of the water by municipalities for household and industrial purposes. For this reason alone, the water quality to be maintained in the Souris should be that quality which does not impose additional burdens on the municipality or its inhabitants. This means, in effect, that any degradation of water quality is unacceptable because TDS concentrations and nutrient levels are already high.

While the fact that municipal water supply is the most critical use is sufficient reason to insist that water quality not be lowered, other considerations are present as well. Should the town of Souris be required to find an alternative source for its municipal water supply, it would have to pipe in water from wells eight miles away. Other towns along the river such as Wawanesa are presently supplied by local wells but will want to resort to Souris River in the future if they grow and well water supplies become inadequate. In short, other sources of municipal water are prohibitively expensive and limited in volume.

It could be noted, too, that Article VIII of the Boundary Waters Treaty of 1909 explicitly gives domestic uses of water precedence over irrigation uses of water, a further indication that it would not be appropriate to have municipal water users suffer a decline in water quality on account of an irrigation project.

Restrictions on future use

While municipal use of water is undoubtedly most critical, there is a wide range of uses in industry, irrigation, and recreation (in Lake Winnipeg) which could be restricted, made more expensive or made impossible as a result of the proposed degradation of water quality.

This final consideration points up very clearly the broad basis for concern over this irrigation project.

DEPARTMENT OF THE ENVIRONMENT.
OTTAWA.

VERMONT SETS AN EXAMPLE FOR NEW ENGLAND

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. HARRINGTON. Mr. Speaker, unemployment and stagnation continue in many areas of New England, and in many of the industries on which New Englanders depend for jobs. This is in no way to imply that there is no growth in the area, or that every township is stagnant. In fact, many parts of the region are experiencing near-boom conditions. This prosperity, however, usually depends on the entry of new industry, or on the shift of old industries into new production areas.

One of the major challenges before us, however, besides the entry of new industry and the development of new technology, lies in finding the managerial or organization means to put the resources of the old industries back to work. Unemployed but relatively skilled workers, vacant plants, idle equipment, unused natural resources—these can all be put back to work if we have the imagination and energy to do the work. Quite clearly, one of the best ways to increase the prosperity of the Northeast is to begin utilizing these resources again.

An article by Bradford W. Ketchum, Jr., "Vermont's Maple Business: The Pale Years Are Past," appeared in the November issue of the New Englander magazine. It is the story of what Richard B. Adams is doing to reinvigorate the maple sirup industry in this one small State. Here is an industry that has almost died recently, but in which one man with foresight and imagination has combined the resources that are available with modern technology and management to create more promise than has existed for decades. It seems to me that this is the kind of effort I have been talking about, and exactly what we need in our older industries to make a significant contribution to growth and prosperity.

The article is of sufficient interest, and Dick Adams' efforts are of such importance by way of example, that I would like to insert it into the RECORD at this time for the information of my colleagues.

VERMONT'S MAPLE BUSINESS: THE PALE YEARS ARE PAST

(NOTE.—New technology spells renaissance for maple industry. Key to its sweetest outlook in 40 years: Saltash, precedent-setting project to tap state forest for world's first automated sugarhouse.)

(By Bradford W. Ketchum, Jr.)

One of New England's oldest industries, it is also one of the few which puts environment first; it requires no land development, nor does it befoul air and water.

Its operations create jobs and revenues with minimal demand on town services.

There are no labor upheavals, no union contracts, and little potential for either.

The supply of raw materials is at record highs, and the resources are self-regenerative.

It is an industry in which young Turks are assuming leadership, where top management ranges in age from 35 to 42.

Its product, by tradition No. 1, corners at least one-third of the market; yet the industry is tapping only 5% of its total potential. Current demand far exceeds supply.

Capital requirements are modest and represent excellent investment opportunity. Through new technology, productivity and sales promise to soar 500% in the next five years; and, in at least one case, projected net profit over this period tops 19%.

The preceding are all illusions. No industry, particularly in New England, could have that much going for it. Wrong. Those are the realities of Vermont's maple industry, which, seemingly headed for extinction as late as 1971, now stands on the threshold of renaissance.

In the past 40 years, Vermont's maple syrup production has dwindled from more than 1 million gallons to 300,000 gallons annually—a relative trickle compared with 1935's peak of 1.58-million gallons. The industry has not enjoyed a million-gallon year since 1944, and last topped the half-a-million mark in 1961. Two years ago, it dipped to a record low of 240,000 gallons.

REDUCED TO A HOBBY?

The industry was evaporating—literally. Large bulk producers were unable to buy the syrup they needed, prices soared, and maple production appeared about to dissolve into nothing more than an alchemic country hobby.

By its nature, Vermont maple syrup is the product of a cottage industry comprised of about 900 small producers—dairy farmers, ranchers, and assorted entrepreneurs—most of whom have never relied on the end product as their sole source of income.

They venture out on snow-crusted February-March days, armed with pails and spouts, to tap standing sugar maples. They begin as weathermen and woodsmen, returning to rustic sugarhouses to become cooks and chemists. The largest sugar farmers, working full-time, manage 12,000 taps (about 1½ per tree); most producers, however, are in the 4–5,000-tap range. Each tree may yield up to 12 gallons of sap during the season, with 40 gallons required for one gallon of syrup. In short, it has always been a labor-intensive, rather than capital-intensive, industry. Until now.

The first production, scheduled for March, 1975, will involve 210 acres and about 15,000 taps, with a syrup goal of 3,500 gal. While Adams plans only a minor production increase the second season, giving him an opportunity to correct any bugs arising during the first effort, his goal for the fifth year is 15,000 gal. (60,000 taps). That does not include anticipated input from smaller producers who may deposit their sap or syrup with Adams to get in on the inaccessible bulk market.

"It's an exciting prospect," beams Adams. "Right now it takes one-and-a-half men to handle 4,000 taps. But soon we'll have one man handling 20,000 taps. And instead of averaging five gallons of syrup an hour, we'll be producing 100 gallons."

LOGGING'S IMPACT

The untapped potential of public maple stands becomes even more significant in light of recent developments in the state's logging industry. While Vermont is 75% forested (vs. 50% in 1900), there is a shortage of private trees.

Frequently, as sugarbushes went out of production in the 1950's and '60s, they were logged off, which, in effect, set the area back 40 years—the time required to generate a tapable sugar maple. In numerous cases, where logging was a prelude to a land developer's ambitions, the resource has been lost forever.

Also spurring the logging operations, perhaps more so than any other factor, has been the development of a bowling craze in Japan. Japanese interests seeking rock (sugar) maple for their alleys and pins, were signing deals at an astounding $700 per 1,000 board-feet last year.

"Maple syrup is the best income-producing woods industry in the state," asserts Adams. "It produces about double the income that logging does, yet it doesn't create unsightly development. We can tap for 250 years, and the trees and natural beauty of the area will remain."

BIGGEST PROBLEM: LOGGING IN CAPITAL

Lest it be assumed that all is as smooth in the Saltash project as the product it seeks to produce, Adams is quick to point out that there are a few hurdles, not the least of which is capitalization. Depending on the SBA, Proctor Trust Co., and several small investors as current capital sources, Adams is convinced that he must go outside the industry and state to attract larger investors.

Recent technological breakthroughs, coupled with new marketing expertise, are distilling revolution in the Green Mountain maple industry. Plastic tubing and vacuum pumps have become a boon to the sugar farmers, now feeding their sugarhouses intravenously from the maple forests; while in marketing, the monopolistic grip so tightly held by two or three giant, bulk-buying food blenders has been broken.

KEY TO REBIRTH: SALTASH PROJECT

The result can be seen in 1972–73 production increases (a 43% gain over 1971) and the bulk prices earned (70¢/lb. vs. bulk buyers' 45¢/lb. bid). This year, retail prices ran $10–12.50 per gallon.

But there's much more to the story of Vermont's resurgent maple business than the obsolescence of galvanized pails and dictatorial buyers. There is the pilot Saltash Mountain Project and its chief architect, Richard B. Adams, 38, of Cuttingsville, Vt.

Adams is constructing the world's first automated sugarhouse; not only will it become the largest maple operation in the U.S., it also sets a highly significant precedent: the trees which Adams will tap are located in Calvin Coolidge State Forest. It will be the first time that public lands have been tapped as a commercial sugarbush.

The idea is not original. Adams himself first tried to obtain permission through the forests and parks commissioner 12 years ago. Typical of most maple producers, he was at that point a dairy farmer working a sugarbush that had been in the family for four generations.

Sugaring since he was five, Adams attended the University of Vermont, where he earned a B.S. degree in agriculture via pre-forestry. It was there that Prof. James Marvin and Ray Foulds, forester, took him under their "maple wing" as he began experiments in tubing and evaporators.

After graduation and a three-year Marine stint, Adams returned to run the family farm and sugarbush, continue the maple experiments, and become an active leader in the State's industry (he is currently president of the 60-member Rutland County Maple Producers, one of three major groups in Vermont; a director of the Vermont Sugar Makers Assn.; and a member of the Vermont Maple Industry Council).

OUT OF THE DAIRY BUSINESS

Three years ago, he divested the dairy operation to concentrate on sugarbush management and technology. He had already perfected an oil-fired evaporator (he now has 15 operating) and had begun experiments in vacuum-pumping of sap. It was then that the seeds of Saltash were sown.

As Adams explains it, "I was bear hunting on Saltash Mountain one day and lost the dogs. As I was looking for them, I started counting maple trees and adding up the taps. It didn't take me long to see the huge potential there, and I decided to find out who owned the land."

It turned out to be the State of Vermont. Adams had been wandering through a 643-acre tract known at the Saltash Block, on the western border of Windsor County, in Plymouth, about 15 miles southeast of Rutland. It contains an estimated 50,000 sugar maples, "just standing there, waiting to be tapped."

It took time—for further experiments, official proposals, projected income statements, and bidding procedures—but on May 23, 1973, the Vermont Dept. of Forests and Parks notified Adams that he was the successful bidder for a 10-year, renewable lease on the Saltash sugarbush.

TAPPING ONLY 5 PERCENT OF RESOURCE

"There have been trees standing in state forests for generations, never contributing sap toward maple syrup production," stresses John D. Moore, area development director for Central Vermont Public Service Corp., Rutland. "The state has the resources to produce 6½-million gallons annually, yet we're only producing 5% of that. That is why the Saltash project is important."

At the recent dedication of a maple laboratory in South Burlington bearing his name, Sen. George D. Aiken (R-Vt.) put it another way: "Our maple trees have quit work and gone on welfare." Characterizing the majestic maples as "millions of beautiful loafers," the veteran Vermonter did have a serious point to make: only 12% of the state's standing maples are being tapped.

Adams is working under a land-use permit acquired by the Dept. of Forests and Parks and adhering to the provisions of Act 250, the state's land development and environmental control law which requires a permit for any activity above the 2,500-ft. level (elevation of the sugarbush: 2,300–3,000 ft.). The permit allows logging operations below 2,500 ft., thinning of trees above that level to improve the maple stand, and stipulates that no buildings will be constructed on state land.

The "improvement cutting" and logging, let by Forests and Parks, is scheduled to begin Nov. 1, and continue through early winter. Involving an estimated 178,000 board-feet, the thinning will create a stand that is 93% sugar maple.

Meanwhile, technological research will continue, led by Dr. Marvin at the University and coordinated by Lawrence D. Garrett at the Northeastern research station of the U.S. Dept. of Agriculture in Burlington.

EIGHTY MILES OF TUBING

Adams has drawn up blueprints for the sugarhouse and is working on the site and right-of-way. An experienced carpenter, licensed plumber and electrician, he will do much of the construction work himself. To be located in Shrewsbury, Vt., the 7,500-sq. ft., $60,000 plant will be connected to the Saltash bush via 400,000 feet (80 miles) of plastic tubing which will feed four oil-fired evaporators. Sap flow to four 16,000-gal. tanks will be automated.

Vacuum pumps will eliminate the need for power lines or gasoline motors and, hence, the possibility of noise pollution. Adams has also guaranteed that there will be no hardware attached to the trees. Initial investment in the woods system (tubing, conduit, clamps, pumps, etc.) is expected to be about $30,000. To preclude accidental release of oil onto the landscape, he will build a dike around the fuel storage tanks to be located beneath the sap tanks.

Estimated total need for start-up ranges from $75,000 to $100,000. While he anticipates losses in the first three seasons, Adams expects to tap black ink during the fourth and fifth years, generating a cumulative five-year net profit of 19.4%.

"I know we can strike an even balance between private and commercial investment, but the problem is who and how," muses Adams. "This operation would be excellent for an investment portfolio—it's ecology-oriented, in a well-established industry, with tremendous growth potential."

Another problem is expanding marketing expertise, distribution, and sales. Here, Adams is drawing on the resources of Central Vermont Public Service and the able counsel of Jack Moore, whose straight-pitch efforts have ranged from Pepperidge Farm and Howard Johnson, to Holiday Inns and Heublein.

EXPORTS AND AEROSOLS

Adams hopes to add a full-time salesman to cover select markets, such as quality food manufacturers, natural-food stores, food-gift firms, and corporate premium promoters.

Meanwhile, opportunity for exports is being explored. The latest development in this area is VM, a new liqueur which blends maple syrup and Scotch. The syrup is shipped by the Franklin County Maple Producers in St. Albans, Vt., to Scotland, where it is combined with the whiskey. (U.S. distribution to date has been limited.)

Packaging innovations—ceramic, aerosols, and portion servings—are other developments under study.

This January, the maple producers will meet with buyer representatives to work up prices for the coming season ("We'll be shooting for 68c to 72c a pound," notes Adams.) The fact that this will occur fully two months before the maple season is indicative of the edge the producers have gained.

Traditionally, buyers would wait until the crop was in, and then attempt to drive the price down. No longer. With some demand and larger economic units, the producers can control the prices their crops will bring before the season starts.

In short, there are few illusions about Vermont maple business in 1973. The renaissance is underway, spearheaded by new technology, and a pilot program that promises new life for a traditional product and economic growth from the environment while preserving that environment. It really is sweet; its future, sweeter.

TRIALS AGAINST SOVIET JEWS SEEKING TO EMIGRATE

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. MOAKLEY. Mr. Speaker, on Friday Aleksandr Feldman will go on trial in the U.S.S.R. on trumped-up charges which mask the real cause of his persecution. His only crime, like that of so many of his countrymen, is that he yearns to be free and has applied to emigrate to Israel.

On the eve of his trial, I would like to take this opportunity to share with my colleagues the comments of the National Conference on Soviet Jewry:

TRIALS AGAINST SOVIET JEWS SEEKING TO EMIGRATE

New trials against Soviet Jews seeking to emigrate are again being prepared by Soviet authorities.

In the last few months there has been increased harassment of Soviet Jews who have applied to emigrate to Israel. Now, for the first time since cancellation in June of preparations for a major "show trial" against a large number of Jews in Minsk, Soviet authorities are again resorting to judicial repression and political trials against Jews actively trying to emigrate.

The trial against Aleksandr Feldman, a 26-year-old Jew from Kiev who applied to emigrate 2 years ago, is scheduled for November 16. He is being tried on trumped-up charges and is expected to be charged with "hooliganism", a catch-all category under the Soviet criminal code.

It is expected that trials are also imminent for at least two other well-known Soviet Jews who have applied to emigrate: Alla Myasoyedova of Moscow, whom Soviet authorities are attempting to coerce into implicating other Jewish activists; and Leonid Zabelishensky of Sverdlovsk.

The trial of Feldman and the possible trials of these other Soviet Jews, whose sole crime is that of seeking to emigrate, are a direct affront to, and a violation of, the spirit of U.S.-Soviet detente. Coming on the heels of the war against Israel, it is increasingly difficult for Americans to understand what Soviet leaders mean by detente.

The regime is apparently using the confusion following events in the Middle East and the Jewish communities' focus of attention on Israel in order to crack down on Soviet Jewish activists.

Attached is background material on the three Soviet Jews expected to be brought to trial.

Profile: Aleksandr Feldman.

Address: USSR, Ukrainian SSR, Kiev, Entuziastov 11/1/147.

Tel. # 447-871.

Born: 1947.

Status: Single.

Occupation: Did construction work in the army; presently unemployed.

Arrested: October, 1973.

Charges: "Hooliganism" (article #206 RSFSR Criminal Code).

On the eve of Simchat Torah, October 18, 1973, authorities searched the apartment of twenty-six year old Aleksandr Feldman, one of the Kiev "Four" (see OUTLOOK #7).* Among the items reportedly confiscated was a book by Jabotinsky and the receipt from a letter to Israel.

Feldman, who applied for emigration two years ago, "disappeared" soon after the search. The NCSJ later learned that he had been taken into custody by the Regional Directorate of Kiev and is expected to be charged with "hooliganism" under article #206 of the criminal code. It is alleged that Feldman assaulted an unidentified old woman. A Kiev newspaper, *Vechernyi Kiev*, ran an article on October 31st that accused Feldman of the attack and judged him "guilty" even before any formal accusation was made. While authorities "promised" not to transfer Feldman to the Pavlov psychiatric hospital, relatives have not been permitted to see him or to send him warm clothing (as other prisoners' relatives are permitted) and internment in the hospital has been repeatedly threatened. The investigation is to end November 8, 1973; thus far, no lawyer has agreed to defend Feldman.

Profile: "The Moscow Conspiracy."

Parties "Involved": Alla Myasoyedova, Abraham I. Gelikh.

On October 1, 1973, KGB workers searched the apartment of Alla Myasoyedova. Since her husband left for Israel, Alla has been staying at the apartment of her father-in-law, A. I. Gelikh. Gelikh is 72 years old, spent 13 years in camps and in exile within the U.S.S.R. and, since his retirement, has devoted his time to writing a treatise on comparative economics, based on data obtained from public sources. During the search, accounts of Gelikh's prison experiences were reportedly confiscated and Alla was then called in for interrogations.

Now both individuals have issued statements to the press. Gelikh explained his interest in studying both the socialist and capitalist systems and Myasayedova, subjected to intensive KGB (Security Police) interrogations, has denied any knowledge of the contents of the items confiscated. In addition, she reports, she is questioned for six to seven hours at a time, until she is exhausted. Authorities are attempting to coerce her to implicate other activists: David Azbel, Mark Nashpits, Boris Orlov. In particular, the authorities have sought to involve Tamara Galperina and Dina Beilina, both hard-core Jewish activists from Moscow.

Born in 1930, Tamara is a translator; she and her husband, Anatoly, a mathematician, applied for emigration in 1971. Dina Beilina and her husband, Josif, an engineer, have one child. They also applied in 1971.

According to Gelikh, "the interrogators are trying to intimidate Myasoyedova with the alleged espionage nature of my work only in order to wring out of her the confession required by the investigation." Myasoyedova admits she does not know how long she can withstand the pressure and wants everyone to know that if she implicates Galperina and Beilina in any trial, this "evidence" would be "untruthful and wrung out of me by threats and blackmail."

Addresses: USSR, RSFSR, Moscow B-61, Cherkibovskaya 6-3-53, Bellina, Dina Tel. No. 161-42-28; USSR, RSFSR, Moscow 105037, Pervomayskaya 14-33, Galperina, Tamara. Tel. No. 164-75-82.

Profile: Leonid Zabelishensky.

Address: USSR, RSFR, Sverdlovsk, Uralskaya 48/99.

Born: 1941.

Status: Married, with 1 young son.

Occupation: Electrical Engineer, taught at Ural Polytechnic Institute (Sverdlovsk); field: theory of computer calculating.

Arrested: October, 1973.

Charges: "Parasitism" (article No. 209-1 RSFSR Criminal Code).

Little is known about thirty-two year old Leonid Zabelishensky. An activist in the small Jewish community of Sverdlovsk, he and his family applied for exit visas in November, 1971. On October 25, 1973, Zabelishensky was taken to an undisclosed place after being arrested by local police. It was later learned that he is being accused of "parasitism," although his wife works and earns a substantial income. Zabelishensky is currently taking care of their sick son. In a search of the Zabelishensky apartment, police reportedly confiscated a voucher from Switzerland, notification from a bank of a money transfer, and a receipt for a letter to Israel. The investigation is due to end in two weeks.

Other activists from remote Sverdlovsk include Valery Kukui and Vladimir Markham, both now serving prison sentences.

* Of Feldman's friends, Zinovy Melamed and Yuri Sorkoko have since received permission although Soroko's wife Basya has not, and the promise of a visa made to Yuli Tartakovsky has not materialized.

MOUNTIE BAND TO RECEIVE BICENTENNIAL FLAG SUNDAY

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. McDADE. Mr. Speaker, the Mansfield State College Mountie Band has been honored by the National Revolutionary Bicentennial Commission as the first college band in the country to be presented with the official flag of the Bicentennial.

This fine and spirited band, representing Mansfield State College in Tioga County of northern Pennsylvania, was so honored because of the promotions for this celebration which they have made in many appearances.

All of us are keenly aware of the fact that we are approaching the 200th birthday of America. We will, in a few short years, be able to celebrate the founding of this most remarkable Nation. It is a celebration that will encompass all of our country, and the work of this Mountie Band is an outstanding contribution to the cause of reminding all Americans that this birthday will soon be upon us.

I know my colleagues will want to join me in offering our warmest congratulations to the Mansfield State College Mountie Band and to its director, Richard N. Talbot. I am very proud to represent all the people of Tioga County here in the Congress, and I know that these people and all Pennsylvanians share the pride I feel in witnessing this singular honor.

Mr. Speaker, I will append an article from the October 18 issue of the Flashlight, the Mansfield State College weekly newspaper:

MOUNTIE BAND TO RECEIVE BICENTENNIAL FLAG SUNDAY

The Mansfield State College Mountie Band has been chosen as the first college band in the country to be presented with the official flag of the bicentennial. They are being honored by the National Revolutionary Bicentennial Commission because of promotions for the celebration which they have made in their appearances. The band is currently displaying the bicentennial flags, but these are on loan and must be returned at the end of the season.

They will be presented with the official flag and give the halftime show at the Jets-Steelers game in Pittsburgh on Sunday, televised by NBC. The actual presentation of the flag to the band will be made by Thompson's Rifle Battalion, the first military unit to be raised during the American Revolutionary War.

The game was originally scheduled to be played at Shea Stadium in New York, but the New York Mets are still using the stadium for the World Series. The field could not be converted in time for a football game. The game, therefore, had to be changed to Three Rivers Stadium in Pittsburgh.

The Mountie Band is made up of 210 students eight students less than last year. According to Mr. Talbot, the rehearsals are easier this year than in the past. They practice two hours on Monday and Wednesday on their own practice field and on Friday an hour is spent practicing at Butler and another hour on Van Norman Field.

With Mr. Talbot, Mr. David Borshine also directs the band. On the field the Mountie Band depends on their student captains, Bruce Brindza, Colin Hughes, and Jim Farrell to lead them.

The halftime show which they will give at the Jets-Steelers game will be a shortened version of the program which they presented at the homecoming game.

The question most asked about the bicentennial is "Where is it going to be held?" The answer to that question came years ago when the drafters of the first bicentennial legislation said, "The bicentennial will be everywhere, in every city, town and village, all across the United States." This is the message that the Mountie Band will be trying to get across with their presentation and what better way to say it than to a captive audience of approximately 20 million people.

The bicentennial celebration will be national in scope providing opportunities for participation on the part of all Americans. It will be a time for review and reaffirmation of the basic principles on which our nation was founded.

The Mountie Band will also receive a certificate of recognition from the National Revolutionary Bicentennial Commission November 13 when they present a concert "A Night with the Mounties" at Straughn Auditorium.

During last season, the Mountie Band was exposed nationally for the first time with their televised halftime performance from Schaffer Stadium in Foxboro, Mass.

EMERGENCY OIL ALLOCATION CONFERENCE REPORT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 14, 1973

Mr. LEHMAN. Mr. Speaker, yesterday, I missed rollcall No. 581 on the emergency oil allocation conference report due to an important meeting which concerned south Florida's future economic development.

I voted for the emergency oil allocation bill when it first passed the House and had I been present, I would have voted "yea" on rollcall No. 581.